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RULES OF FAMILY LAW PROCEDURE

I. GENERAL ADMINISTRATION

Rule 101. Scope of Rules

These rules govern the procedure in the Magistrate's Division of the Fourth Judicial District court in the State of Idaho in all family law cases, including paternity, (but excluding cases involving the Child Protection Act, Adoption, Termination and Guardianship), proceedings related to the Domestic Violence Crime Prevention Act and all proceedings, judgments or decrees related to the establishment, modification or enforcement of such orders, excepting contempt. These rules should be liberally construed and enforced in a manner to secure the just, prompt and inexpensive determination of every action and proceeding.

A. Applicability of these rules. These rules shall apply to all cases, including modification and enforcement proceedings, filed on or after January 1, 2013. Any action filed prior to January 1, 2013 will be governed by the Idaho Rules of Civil Procedure.

Rule 102. Applicability of Other Rules

A. Applicability of Idaho Rules of Civil Procedure. The Idaho Rules of Civil Procedure apply only when incorporated by reference in these rules.

B. Applicability of Idaho Rules of Evidence.

1. Upon notice to the court filed by any party within thirty (30) days after a response or other responsive pleading is filed, or, if none, within forty-two (42) days from the filing of the motion or petition, or such other date as may be established by the court, any party may require strict compliance with the Idaho Rules of Evidence, except as provided in Rule 102.B.3.

2. If no such notice is filed, all relevant evidence is admissible, provided, however, that the court shall exclude evidence if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay, waste of time, needless presentation of cumulative evidence, lack of reliability or failure to adequately and timely disclose same. This admissibility standard shall replace rules 403, 602, 801-806, 901-903 and 1002-1005, Idaho Rules of Evidence, except as provided in Rule 102.B.3. All remaining provisions of the Idaho Rules of Evidence apply.

3. Regardless of whether a notice is filed under Rule 102.B.1, records of regularly conducted activity as defined in Rule 803(6), Idaho Rules of Evidence, may be admitted into evidence without testimony of a custodian or other qualified witness as to its authenticity if such document (i) appears complete and accurate on its face, (ii) appears to be relevant and reliable, and (iii) is seasonably disclosed and copies are provided at time of disclosure to all other parties.

C. Applicability of local rules. To the extent these rules are inconsistent with local rules, the provisions of these rules shall apply.

Rule 103. Definitions

A. Parties. Reference to a party to the action may include the State.

B. Definitions. In these rules, unless the context otherwise requires, the following definitions shall apply:

1. I.C.A.R. References herein to I.C.A.R. are the Idaho Court Administrative Rules.

2. In camera. If the court orders that a document be reviewed in camera, the party who possesses the document shall submit the document ex parte to the court. The court shall then privately review the document to determine whether it should be further disclosed under applicable law and rules.

3. Motion. A motion is a written request made after a petition seeking relief is filed. There shall be no procedure for Order to Show Cause.

4. Moving Party. The party (movant or applicant) who has filed a written request for relief, regardless of whether or not that party was the petitioner or respondent in the initial petition.

5. Petition. The petition is the initial pleading that commences a family law case or the initial pleading that commences a post-decree matter. All initial documents shall be denominated as a petition followed by brief descriptive wording summarizing the nature of the relief sought.

6. Petitioner. A petitioner is a person or entity who files the first petition, and shall be referred to as such in all subsequent documents, including all post-decree petitions, motions and documents in the same case.

7. Respondent. A respondent is any opposing party other than the petitioner.

8. Response. A response is a document that substantially responds to a petition or a motion, and includes a response to a petition.

9. Service of Process. Service of process is the act of delivering a petition, summons, motion, notice of hearing, affidavit, brief, or any of the other documents referred to in these rules.

10. Title IV-D. Title IV-D means Title IV-D of the Social Security Act, 42 U.S.C. 651 *et seq.* Title IV-D is administered in Idaho by the State Department of Health and Welfare.

11. Venue. Refers to the particular county where a court with jurisdiction hears and determines the case.

12. Witness. A witness is a person whose declaration under oath or affirmation is received as evidence for any purpose, whether such declaration is made on oral examination, by deposition or by affidavit.

Rule 104. Time

A. Computation. In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

B. Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the parties, by written stipulation, which does not disturb the orderly dispatch of business or the convenience of the court, filed in the action, before or after the expiration of the specified period, may enlarge the period, or the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by previous order or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but the time may not be extended for taking any action under rules 802, 807.B, 807.D, 807.E and 809 except to the extent and under the conditions stated in those rules.

C. Additional time after service by mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, three (3) days shall be added to the prescribed period.

D. Blood or other genetic tests in paternity actions. If a blood or other genetic test is used to prove paternity, the blood or other genetic test report shall be served upon the respondent with the petition or as soon as it is obtained. The blood or other genetic test report must be served upon the respondent at least twenty-eight (28) days before the date set for trial, together with a notice that the blood or other genetic test will be admitted under this rule if no objection is filed at least twenty-one (21) days in advance of trial. The verified expert's blood or other genetic test report shall be admitted at trial unless a challenge to the testing procedures or the blood or other genetic analysis has been made by a party at least twenty-one (21) days before the date set for trial.

E. Setting hearings by court. The court upon its own initiative may notice for hearing any motion, trial or proceeding which is pending before it by notice to all parties in conformance with these rules.

F. Stipulations not binding on court – continuance of trial or hearing. The parties to any action may present to the court a stipulation as to any procedural matter involved in any proceeding, including a stipulation to vacate or continue a hearing or trial, but such stipulation shall be considered as a joint motion by the parties to the court for its consideration, and shall not be binding upon the court. The court may approve or disapprove the stipulation in the same manner as the court rules upon a motion. The court may by oral or written notice to the parties limit the time within which a motion or stipulation to vacate or continue a hearing or trial must be made in order to be considered by the court.

Rule 105. Change of Venue

A. Court may change venue. A judge or magistrate may grant a change of venue or change the place of trial to another county in any civil action as provided by statute, and the judge or magistrate must, on motion pursuant to Rule 502.A, change the venue of a trial when it appears by affidavit or other satisfactory proof:

1. That the county designated in the complaint is not the proper county, which motion must be made no later than fourteen (14) days after the party files a responsive pleading, or

2. That there is reason to believe that an impartial trial cannot be had therein, or

3. That the convenience of witnesses and the ends of justice would be promoted by the change.

B. Transfer of cases. In the event a trial judge grants a change of venue pursuant to this Rule to a court of proper venue within the same judicial district, the trial judge granting the change of venue shall order the case transferred to a specific court of proper venue within the judicial district and shall continue the assignment over the case, unless the administrative district judge shall reassign the case to another judge of the judicial district. In the event a trial judge desires to transfer a case to a court of proper venue outside of the judicial district in which the action is filed and desires to continue the assignment over the case, the trial judge may enter an order granting the change of venue and indicate therein a suggested court of proper venue in another judicial district and the trial judge's desire to preside over the case, and then refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue in another judicial district and assignment of a specific judge to preside in the proceeding. In the event a trial judge desires to transfer a case to a county outside of the judicial district in which the action is filed upon the grounds that the county designated in the complaint is not the proper county, the trial judge shall enter an order transferring the case to the proper county and a trial judge of the receiving judicial district shall be assigned to preside over the case under the assignment procedures of that judicial district. In the event a trial judge desires to transfer a case to a court of proper venue outside of the judicial district in which the action is filed upon the grounds set forth in sub-paragraphs A.2 or A.3 of this rule, and the trial judge does not desire to continue the assignment over the case, the trial judge shall enter an order granting the change of venue, and then refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue in another judicial district and assignment of a specific judge to preside in the proceeding.

C. Assignment on disqualification. In the event that a judge is disqualified from further handling of a proceeding in which a change of venue has been granted to a court of proper venue within the same judicial district, the administrative district judge shall reassign the case to another judge of the judicial district. In the event that a judge is disqualified from further handling of a proceeding in which a change of venue has been granted from an originating court outside of the judicial district, the administrative district judge of the judicial district to which venue has been removed shall refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and assignment of a specific judge to preside in the proceeding.

D. Denial for inconvenient forum. In ruling upon a motion for change of venue under subsection A.1 above, the court may consider an objection thereto based upon subsections A.2 or A.3, and the court may deny an otherwise proper motion for change of venue under subsection A.1 if it finds that the convenience of witnesses and the ends of justice would be promoted by retaining jurisdiction in the county where the action is filed.

E. Sanctions for filing in improper venue. When a judge or magistrate grants a motion for change of venue, if the court finds that the action was filed in the county of improper venue without good cause, the court may, in its discretion, assess sanctions against the party, or the party's attorney, who filed the action.

Rule 106. Consolidation

A. Court may make orders. When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the maters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

B. Consolidation into lowest case number. Except as set forth in subdivision C, motions to consolidate actions in the same county shall be presented to and ruled upon by the judge to whom the lowest numbered case or first filed case has been assigned among those matters sought to be consolidated. Notice shall be given to all parties in each action involved and a copy filed in each case involved. In the event the motion is granted, the order shall specify the case number under which all future papers shall be filed, which shall be the lowest of the case numbers involved. Thereafter, that number shall be used exclusively for all papers filed only in the designated case file. If a motion to consolidate is granted, all further action with regard to the consolidated cases shall be heard by the judge who is assigned the lowest numbered case or first filed cases involved.

C. Consolidation of child support and custody cases. A motion to consolidate a case involving only child support with a domestic relations case involving custody may be presented to and ruled upon by the judge to whom either action has been assigned. In the event the motion is granted, the order shall specify that the actions are consolidated under the case number assigned to the action involving custody and all future papers shall be filed under that case number. All further action with regard to the consolidated cases shall be heard by the judge who is assigned the action involving custody.

Rule 107. Disqualification of Judge Without Cause

In all civil actions, the parties shall each have the right to one (1) disqualification of the judge without cause, except as herein provided, under the following conditions and procedures:

A. Motion to disqualify. In any action in the district court or the magistrate's division thereof, any party may disqualify one (1) judge by filing a motion for disqualification, which shall not require the stating of any grounds therefor, and such motion for disqualification, if timely, shall be granted.

B. Time for filing. A motion for disqualification without cause must be filed not later than seven (7) days after service of a written notice or order setting the action for status conference, pretrial conference, trial or for hearing on the first contested motion, or not later than twenty-one (21) days after service or receipt of a complaint, summons, order or other pleading indicating or specifying who the presiding judge to the action will be, whichever occurs first; and such motion must be filed before the commencement of a status conference, a pretrial conference, a contested proceeding or trial before the judge sought to be disqualified.

C. Multiple parties. If there are multiple parties plaintiff, defendant or otherwise, the trial court shall determine whether such co-parties have sufficient interest in common in the action so as to be required to join in a disqualification without cause, or whether such parties have an adverse interest in the action such that each adverse co-party is entitled to file one (1) motion for disqualification without cause.

D. New parties. If a new party is joined in an action after the time for disqualification without cause of the presiding judge has passed, the new party shall have the right to file a motion for

disqualification without cause within fourteen (14) days of the filing date of that party's first appearance or from the date when that party's first responsive pleading is due, whichever occurs first.

E. New judge. If at any time during the course of the proceedings, except under circumstances involving alternate judges as set forth below in subparagraph G, a new judge is assigned to preside over the case, each party shall have the right to file one (1) motion for disqualification without cause as to the new judge, within the time limits set forth in subparagraph B of this Rule. Provided, if a party has previously exercised a disqualification under this Rule 107, that party shall have no right of disqualification without cause of a new judge under this subparagraph.

F. Disqualification on new trial. After a trial has been held, if a new trial has been ordered by the trial court or by an appellate court, each party may file a motion for disqualification without cause of the presiding judge, within the time limits set forth in subparagraph B of this Rule.

G. Alternate judges. If the presiding judge intends to have a panel of judges as alternates to preside at trial or at any other hearing or proceeding in the case, a notice or amended notice of trial setting shall include a list of judges who may alternatively be assigned to so preside if the presiding judge is unavailable. Upon service of the notice as to the panel, each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than ten (10) days after service of written notice listing the alternate judges. Provided, if a party has previously exercised the right to disqualification without cause under this Rule, that party shall have no right to disqualify an alternate judge under this subparagraph.

H. Service on judge. A party moving to disqualify a judge or magistrate under this Rule shall mail a copy of the motion for disqualification to the presiding judge or magistrate at the judge's resident chambers.

I. Exceptions. Notwithstanding the above provisions, the right to disqualification without cause shall not apply to:

1. A judge when acting in an appellate capacity, unless the appeal is a trial de novo;

2. A judge who has been appointed by the Supreme Court to preside over a specific civil action.

3. A judge hearing petitions to modify child custody orders or child support orders entered by that same judge in an earlier proceeding.

J. Misuse of disqualification without cause. A Motion for disqualification without cause shall not be made under this Rule to hinder, delay or obstruct the administration of justice. If it appears that an attorney or law firm is using disqualifications without cause for such purposes, or with such frequency as to impede the administration of justice, the Trial Court Administrator shall notify the Administrative Director of the Courts requesting a review of the possible misuse of disqualifications without cause. The Administrative Director shall review the possible misuse of this Rule and may take remedial measures. The Administrative Director, before or after taking such remedial measures, may refer the matter to the Chief Justice, who, upon determining that there has been misuse of disqualifications without cause, may take appropriate action to address the misuse, which may include an order providing that the attorney or firm that has engaged in such misuse is prohibited from using disqualifications

without cause for such period of time as is set forth in the order or until further order of the Chief Justice.

Rule 108. Disqualification for Cause

A. Grounds. Any party to an action may disqualify a judge or magistrate for cause from presiding in any action upon any of the following grounds:

1. That the judge or magistrate is a party, or is interested, in the action or proceeding.

2. That the judge or magistrate is related to either party by consanguinity or affinity within the third degree, computed according to the rules of law.

3. That the judge or magistrate has been attorney or counsel for any party in the action or proceeding.

4. That the judge or magistrate is biased or prejudiced for or against any party or the case in the action.

B. Motion for disqualification. Any such disqualification for cause shall be made by a motion to disqualify accompanied by an affidavit of the party or the party's attorney stating distinctly the grounds upon which disqualification is based and the facts relied upon in support of the motion. Such motion for disqualification for cause may be made at any time. The presiding judge or magistrate sought to be disqualified shall grant or deny the motion for disqualification upon notice and hearing in the manner prescribed by these rules for motions.

Rule 109. Voluntary Disqualification

Rule 108 shall not prevent any presiding judge in an action from making a voluntary disqualification without stating any reason therefore.

Rule 110. Disqualification and Assignment of New Judge

Upon the filing of a motion for disqualification, the presiding judge shall be without authority to act further in such action except to grant or deny such motion for disqualification. Upon disqualification of a judge for any reason, the administrative judge of the judicial district, or designee, shall appoint any other qualified judge in the state to act or preside in the action. In lieu of such direct appointment procedure, the administrative district judge, or designee, may make application to the Supreme Court for appointment of a new judge to preside in the action.

Rule 111. Change of Attorneys

The attorney of record of a party to an action may be changed or a new attorney substituted by notice to the court and to all parties signed by both the withdrawing attorney and the new attorney without first obtaining leave of the court. If a new attorney appears in an action, the action shall proceed in all respects as though the new attorney of record had initially appeared for such party, unless the court finds good cause for delay of the proceedings.

Rule 112. Appearance and Withdrawal of Counsel

Except as otherwise provided in these rules, or by stipulation and order of the court, no attorney may withdraw as an attorney of record for any party to an action without first obtaining leave and order of the court upon a motion filed with the court, and a hearing on the motion after notice to all parties to the action, including the client of the withdrawing attorney. Leave to

withdraw as a counsel of record may be granted by the court for good cause and upon such conditions or sanctions as will prevent any delay in determination and disposition of the pending action and the rights of the parties. Provided, that at the conclusion of any family law proceeding to which these local rules apply, attorneys for both parties shall be deemed to have automatically withdrawn as the attorneys of record effective when the time for appeal from the final judgment has expired and there are no proceedings pending.

A. Leave to withdraw - notice to client. If an attorney is granted leave to withdraw, the court shall enter an order permitting the attorney to withdraw and directing the attorney's client to appoint another attorney to appear, or to appear in person by filing a written notice with the court stating how the client will proceed without an attorney, within 20 days from the date of service or mailing of the order to the client. After the order is entered, the withdrawing attorney shall forthwith, with due diligence, serve copies of the same upon the client and all other parties to the action and shall file proof of service with the court. The withdrawing attorney may make such service upon the client by personal service or by certified mail to the last known address most likely to give notice to the client, which service shall be complete upon mailing. Upon the entry of an order granting leave to an attorney to withdraw from an action, no further proceedings can be had in that action which will affect the rights of the party of the withdrawing attorney for a period of 20 days after service or mailing of the order of withdrawal to the party. If such party fails to file and serve an additional written appearance in the action either in person or through a newly appointed attorney within such 20 day period, such failure shall be sufficient ground for entry of default and default judgment against such party or dismissal of the action of such party, with prejudice, without further notice, which shall be stated in the order of the court. The attorney shall provide the last known address of the client in any notice of withdrawal.

B. Withdrawal upon death, extended illness, absence, suspension or disbarment of attorney. In the event of the death, extended illness, absence, suspension or disbarment from the practice of law of an attorney of record in an action, if such attorney has not indicated on the appearance that the attorney is associated with a partnership, firm, corporation or other attorneys in the action, then no further proceedings can be had in such action that will affect the rights of the party represented by such attorney until the order has been served as provided in this rule. Such order may be obtained and served by any party to the action, or the party's attorney, in the same manner and with the same effect as service of the order by a withdrawing attorney as provided in this Rule.

C. Limited pro bono appearance. In accordance with the Idaho Rules of Professional Conduct 1.2(c) an attorney may appear to provide pro bono assistance to an otherwise pro se party in one or more individual proceedings in an action. An attorney making a limited pro bono appearance must file and serve on the opposing party a notice of limited appearance prior to or simultaneous with the proceeding or proceedings, specifying all matters that are to be undertaken on behalf of the party. The attorney shall have no authority to act on behalf of the party on any matter not specified in the notice or any properly filed and served amendment thereto. Service on an attorney who has made a limited appearance for a party shall be valid only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders. Upon the conclusion of the matters specified for the attorney's limited appearance, the attorney shall file a notice of completion of limited appearance with the court. Upon such filing, the attorney's role terminates without the necessity of leave of the court.

Rule 113. Capacity to Sue or Be Sued

The capacity of a party, other than one acting in a representative capacity, to sue or be sued, shall be determined by the law of this state.

Rule 114. Infants or Incompetent Persons

Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. If an infant or incompetent person does not have a duly appointed representative the person may sue by a next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person.

Rule 115. Public Access to Proceedings – Trials and Hearings

All trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom; except that in an action for divorce, annulment, civil protection order or breach of promise of marriage, the court may exclude all persons from the courtroom except officers of the court, the parties, their witnesses, and counsel, provided that in any cause the court may exclude witnesses as provided in the Idaho Rules of Evidence. All trials or hearings of any court held before a judge or magistrate assigned thereto, and all judgments and orders issued by such courts shall be deemed to have been done in open court regardless of the place held. In the discretion of the court, any hearing except a trial or evidentiary hearing may be held outside the county in which the action was filed or transferred for change of venue. A minute entry shall be made by the clerk of the court under the direction of the court of all court proceedings and filed in the official file of the action.

Rule 116. Affirmation in Lieu of Oath

Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

Rule 117. Conduct of Proceedings

A. Reasonable time limits on proceedings. The court may impose reasonable time limits on all proceedings or portions thereof and limit the time to the scheduled time. Any party may request additional time by filing a motion within a reasonable time or as directed by the court.

B. Proceedings conducted in orderly manner. All proceedings shall be conducted in an orderly, courteous, and dignified manner. Arguments and remarks shall be addressed to the court.

C. Arguments limited to 15 minutes. Unless a different time is allowed by the presiding judge or a different time is fixed by other controlling rule, arguments on contested motions shall be limited to 15 minutes for each side.

Rule 118. Telephonic Appearance

The court may hold hearings by telephone conference or video teleconference to which the counsel for each party, the court and any other persons designated by the court are joined in

one telephone call on any motion without witness testimony or on any pretrial matter. The court may cause minutes thereof to be prepared and filed in the action. The costs of such telephone conference or video teleconference may be allowed as discretionary costs to the prevailing party in the action. The court may, and with respect to hearings on motions shall, cause the audio of such telephone conference or video teleconference to be recorded electronically with such recording to be made, retained and erased as the court may direct.

Rule 119. Participation of Children in Proceedings

A. Appointment of child's attorney

1. Pursuant to Idaho Code 32-704(4), the court, in its discretion, may appoint a lawyer to represent a child in a custody or a visitation dispute and shall enter an order for costs, fees, and disbursements in favor of the child's attorney in compliance with that statute.

2. The order of appointment must clearly set forth the terms of the appointment, including the reasons for and duration of the appointment, rights of access as provided under this paragraph and applicable terms of compensation.

3. Qualifications of Child's Attorney. The court may appoint as a child's attorney only an individual who is qualified through training or experience in the type of proceeding in which the appointment is made, as determined by the court and according to any standards established by Idaho law or rule.

4. Access to Child and Information Relating to Child.
    a. Subject to subdivision 3 and any conditions imposed by the court that are required by law, rules of professional conduct, the child's needs, or the circumstances of the proceeding, the court shall issue an order of access at the time of an order of appointment, authorizing the child's attorney to have immediate access to the child and any otherwise privileged or confidential information relating to the child.
    b. The custodian of any relevant record relating to a child shall provide access to a person authorized by order issued pursuant to this rule to access the records.
    c. A child's record that is privileged or confidential under law other than this rule may be released to a person appointed under this rule only in accordance with that law. If necessary, either or both parents may be ordered to comply with this rule by signing any necessary releases of information that are in compliance with the Health Insurance Portability and Accountability Act (HIPAA).
5. Participation in Proceeding by Child's Attorney.
    a. A child's attorney shall participate in the conduct of the litigation to the same extent as an attorney for any party.
    b. A child's attorney may not engage in ex parte contact with the court except as authorized by law other than this rule.
    c. In a proceeding, a party, including a child's attorney may call any court-appointed expert witness as a witness for the purpose of cross-examination regarding the witness'' report without the advisor's being listed as a witness by a party.
    d. An attorney appointed as a child's attorney may not be compelled to produce the attorney's work product developed during the appointment; be required to disclose the source of information obtained as a result of the appointment; submit a report into evidence; or testify in court.

e. Subdivision d above does not alter the duty of an attorney to report child abuse or neglect under applicable law.

B. Presence of child. Unless a minor child is represented by counsel as previously set forth in this Rule, and except in emergency situations, no minor child shall provide sworn testimony, either written or oral; be brought to court as a witness or to attend a hearing; or be subpoenaed to appear at a hearing without prior court order based on good cause shown.

C. Court interview of a child. On motion of any party, or its own motion, the court may, in its discretion, conduct an in camera interview with a minor child who is the subject of a custody or parenting time dispute, to ascertain any relevant information, including the child's wishes as to the child's custodian and as to parenting time. The interview may be conducted at any stage of the proceeding and shall be recorded by a court reporter or any electronic medium that is retrievable in perceivable form. The record of the interview may be sealed, in whole or in part, based upon good cause and after considering the best interests of the child. The parties may stipulate that the record of the interview shall not be provided to the parties or that the interview may be conducted off the record.

D. Testimony of a child. A motion by one of the parties to offer the testimony of a minor child shall be in writing; and shall be filed with the clerk of court, provided to the court, and served on all parties not less than 28 days prior to the hearing or trial. The court shall rule upon such a motion no later than seven days prior to the hearing or trial in the matter. On reasonable notice under the circumstances, the court may, on its own motion, compel the testimony of a minor child.

Rule 120. Dismissal of Inactive Cases

In the absence of a showing of good cause for retention, any action, appeal or proceeding, except for guardianships, conservatorships, and probate proceedings, in which no action has been taken or in which the summons has not been issued and served, for a period of six (6) months shall be dismissed. Dismissal pursuant to this rule in the case of appeals shall be with prejudice and as to all other matters such dismissal shall be without prejudice. At least 14 days prior to such dismissal, the clerk shall give notification of the pending dismissal to all attorneys of record, and to any party appearing on that party's own behalf, in the action or proceeding subject to dismissal under this rule.

Rule 121. Dismissal of Active Cases - Voluntary dismissal - Effect Thereof – By Petitioner – By Stipulation

Subject to the provisions of any statute of the state of Idaho, an action may be dismissed by the petitioner without order of court (1) by filing a notice of dismissal at any time before service by the adverse party of a response or of a motion for summary judgment, whichever occurs first, or (2) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice. A voluntary dismissal by the claimant alone shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

Rule 122. Dismissal by Order of Court

Except as provided in Rule 121, an action shall not be dismissed at the petitioner's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a

counterclaim has been pleaded by a respondent prior to the service upon the respondent of the petitioner's motion to dismiss, the action shall not be dismissed against the respondent's objection unless the counterclaim can remain pending for dependent adjudication by the court. Unless otherwise specified in the order, a dismissal under this rule is without prejudice.

Rule 123. Involuntary Dismissal - Effect Thereof

For failure of the petitioner to prosecute or to comply with these rules or any order of court, a respondent may move for dismissal of an action or of any claim against the respondent. After the petitioner, in an action tried by the court without a jury, has completed the presentation of the petitioner's evidence, the respondent, without waiving the right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the petitioner has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the petitioner or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the petitioner, the court shall make findings as provided in Rule 801. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, or for failure to join a party under Rule 210, operates as an adjudication upon the merits. The provisions of this rule apply to the dismissal of any counterclaim, cross-claim, or third-party claim.

Rule 124. Costs of Previously Dismissed Action

If a petitioner who has once dismissed an action in any court commences an action based upon or including the same claim against the same respondent, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the petitioner has complied with the order.

Rule 125. Withdrawal of Files

No paper, record or file in any action or proceeding shall be removed from the custody of the clerk except that such papers, records and files may be withdrawn for the use of the court.

Rule 126. Idaho Child Support Guidelines

A. Introduction. The Child Support Guidelines are intended to give specific guidance for evaluating evidence in child support proceedings. Acknowledging there are diverse needs and resources in individual cases, the following Guidelines will produce a more equitable and uniform approach in establishing child support obligations. The Guidelines may be referred to as the Idaho Child Support Guidelines (I.C.S.G.).

B. Application. The Guidelines apply to determinations of child support obligations between parents in all judicial proceedings that address the issue of child support for children under the age of eighteen years or children pursuing high school education up to the age of nineteen years. Support for post-secondary education after age eighteen is beyond these Guidelines.

C. Function of Guidelines. The Guidelines are premised upon the following general assumptions:

1. The costs of rearing a child are reasonably related to family income, and the proportion of family income allocated to child support remains relatively constant in relation to total household expenditures at all income levels;

2. In relation to gross income, there is a gradual decline in that proportion as income increases;

3. The Guidelines amount is the appropriate average amount of support during the minority of the child at a given parental income, so that age-specific expenses do not alter the Guidelines amount. These assumptions may not be accurate in all cases. The amount resulting from the application of the Guidelines, which includes the basic child support calculation and all adjustments, is the amount of child support to be awarded unless evidence establishes that amount to be inappropriate. In such case the court shall set forth on the record the dollar amount of support that the Guidelines would require and set forth the circumstances justifying departure from the Guidelines; and

3. Child support received and the custodial parent's share of support are spent on the child(ren).

D. Basic Guideline principles. These Child Support Guidelines are premised upon the following basic principles to guide parents, lawyers, and courts in arriving at child support obligations:

1. Both parents share legal responsibility for supporting their child. That legal responsibility should be divided in proportion to their Guidelines Income, whether they be separated, divorced, remarried, or never married.

2. In any proceeding where child support is under consideration, child support shall be given priority over the needs of the parents or creditors in allocating family resources. Only after careful scrutiny should the court delay implementation of the Guidelines amount because of debt assumption.

3. Support shall be determined without regard to the gender of the custodial parent.

4. Rarely should the child support obligation be set at zero. If the monthly income of the paying parent is below $800.00, the Court should carefully review the incomes and living expenses to determine the maximum amount of support that can reasonably be ordered without denying a parent the means for self-support at a minimum subsistence level. There shall be a rebuttable presumption that a minimum amount of support is at least $50.00 per month per child.

E. Modifications. The amount of child support provided for under these Guidelines may constitute a substantial and material change of circumstances for granting a motion for modification for child support obligations. A support order may also be modified to provide for health insurance not provided in the support order.

F. Guidelines income determination – income defined. For purposes of these Guidelines, Guidelines Income shall include the gross income of the parents and if applicable, fringe benefits and/or potential income; less adjustments as set forth in subdivision G of this rule.

1. Gross income defined.
    a. Gross income.
        i. Gross income includes income from any source, and includes, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, pensions, interest, trust income, annuities, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, alimony, maintenance, any veteran's benefits received, education grants,

scholarships, other financial aid and disability and retirement payments to or on behalf of a child. If benefits are being paid to a child on behalf of a disabled or retired parent and are received by the parent entitled to support, and if credit against a support obligation is being given pursuant to section H.5, the amount of the disability payments to the child will be added to the income of the disabled or retired parent. The court may consider when and for what duration the receipt of funds from gifts, prizes, net proceeds from property sales, severance pay, and judgments will be considered as available for child support. Benefits received from public assistance programs for the parent shall be included except in cases of extraordinary hardship. Child support received is assumed to be spent on the child and is not income to the parent. Payments received as a result of the child's disability are not income of either parent.

ii. Compensation received by a party for employment in excess of a 40 hour week shall be excluded from gross income, provided the party demonstrates and the Court finds: (1) the excess employment is voluntary and not a condition of employment; and (2) the excess employment is in the nature of additional, part-time employment, or is employment compensable as overtime pay by the hour or fractions of the hour, and (3) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation, and (4) the party is otherwise paid for full time employment at least 48 weeks per year, and (5) child support payments are calculated based upon current income. This provision is intended to benefit those who already work a full-time job, and undertake voluntary, additional employment. It is not intended to benefit self-employed individuals who may work more than 40 hours per week, those that may be seasonally employed in more than one job (none of which is full-time), those who may be employed in excess of 40 hours per week for part of the year, but are not employed full-time for most of the year, nor those whose employer regularly requires overtime as part of their employment.

b. Rents and business income. For rents, royalties, or income derived from a trade or business (whether carried on as a sole proprietorship, partnership, or closely held corporation), gross income is defined as gross receipts minus ordinary and necessary expenses required to carry on the trade or business or to earn rents and royalties. Excluded from ordinary and necessary expenses under these Guidelines are expenses determined by the court to be inappropriate for determining gross income for purposes of calculating child support. In general, income and expenses from self-employment or operation of a business should be carefully reviewed to determine the level of gross income of the parent to satisfy a child support obligation. This amount may differ from a determination of business income for tax purposes. Additionally, specifically permitted are the following deductions, unless, in the sole discretion of the Court, permitting any or all of such deductions would result in an inequitable or inappropriate amount of child support in view of all the circumstances:

   i. Straight line depreciation for the life of the asset.[1]

[1] "Life of the asset" is defined as the recovery period of the asset under the alternative depreciation system (ADS) as provided in Internal Revenue Service Rev. Proc. 87-56, 1987-2 CB 674.2.

ii. One-half of the self-employment social security tax paid on the trade or business income.

c. Income of Parents and Spouse. Gross income ordinarily shall not include a parent's community property interest in the financial resources or obligations of a spouse who is not a parent of the child, unless compelling reasons exist. This subsection limits the application of *Yost v. Yost*, 112 Idaho 677, 736 P.2d 988 (1987).

d. Contributions to Living Expenses. Where a parent derives a benefit through contribution to living expenses of the parent or children, e.g., from parents, spouse or others, or by sharing expenses, the court shall not consider the benefit to the parent as an available resource, unless compelling reasons exist.

2. Fringe Benefits Defined. Fringe benefits received by a parent in the course of employment, or operation of a trade or business shall be counted as income if they are significant and reduce personal living expenses. Such fringe benefits might include a company car, free housing, or room and board.

3. Potential Income.

a. Potential earned income. If a parent is voluntarily unemployed or underemployed, child support shall be based on gross potential income, except that potential income should not be included for a parent that is physically or mentally incapacitated. A parent shall not be deemed under-employed if gainfully employed on a full-time basis at the same or similar occupation in which he/she was employed for more than six months before the filing of the action or separation of the parties, whichever occurs first. On post-judgment motions, the six month period is calculated from the date the motion is filed. Ordinarily, a parent shall not be deemed underemployed if the parent is caring for a child not more than 6 months of age. Determination of potential income shall be made according to any or all of the following methods, as appropriate:

i. Determine employment potential and probable earnings level based on the parent's work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community.

ii. Where a parent is a student, potential monthly income during the school term may be determined by considering student loans from any source.

b. Potential Unearned Income. If a parent has assets that do not currently produce income, or that have been voluntarily transferred or placed in a condition or situation to reduce earnings, the court may attribute reasonable monetary value of income to the assets so that an adequate award of child support may be made.

G. Adjustments to gross income. Alimony, maintenance, and other child support obligations.

1. Other court orders. A deduction shall be allowed from Gross Income for the amount ordered pursuant to any other court order for child support or spousal maintenance from another relationship.

2. Spousal maintenance in current case. A deduction shall be allowed from gross income for any spousal maintenance being ordered in the current case.

3. Support paid without court order. A deduction shall be allowed from Gross Income for payments without court order currently being made (or an average thereof, if amounts vary) for the support of a child from another relationship where that parent has established a regular pattern of payment.

4. Support of other children living in home. Because the custodial parent's share of support is presumed to be spent directly on the child a deduction shall be allowed from Gross Income when a natural or adopted child of another relationship resides in the home of either parent. The deduction shall be the Guideline support amount calculated for that child, using only that parent's income.[2]

5. Later born or adopted children. In a proceeding to modify an existing award, children who are born or adopted after the entry of the existing order shall not be considered.

H. Adjustments to the award of child support.

1. Child care costs. A basic child support calculation does not cover work-related child care expenses. The court may order a sharing of reasonable work-related child care expenses incurred by either party in proportion to their Guideline Income. If the court imputes income to a student parent, then the court may order up to a pro-rata sharing of the student's reasonable child care expenses while attending school. If ordered, these payments shall be directly between the parties, unless agreed otherwise. The court may consider whether the federal child care tax credit for such minor is available as a benefit to a parent.

2. Transportation. The court may order an allocation of transportation costs and responsibilities between the parents after considering all relevant factors, which shall include:

a. The financial resources of the child;
b. The financial resources, needs and obligations of both parents which ordinarily shall not include a parent's community property interest in the financial resources or obligations of a spouse who is not a parent of the child, unless compelling reasons exist;
c. The costs and difficulties to both parents in exercising custodial and visitation time;
d. The reasons for the parent's relocation; and
e. Other relevant factors.

3. Tax benefits. The actual federal and state income tax benefits recognized by the party entitled to claim the federal child dependency exemption should be considered in making a child support award. The parties may agree to an allocation of the dependency benefits. Otherwise, the court should assign the dependency exemption(s) to the parent who has the greater tax benefit calculated from the tables below using the marital status and guidelines income of each parent at the time of the child support award calculation. The parent not receiving the exemption(s) is entitled to a pro rata share of the income tax benefit or child tax credit in proportion to his/her share of the guidelines income. The pro rata share of the income tax benefit will be either a credit against or in addition to basic child support and shall be included in the child support order.

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[2] *Example*: Bob and Alice are divorcing. They have two children. Bob has a child from another relationship living with him for whom he receives $240 per month support. The two children will live with Alice as the custodial parent. In computing support for the two children living with Alice, Bob's gross income is reduced by a sum, computed under the Guidelines (from the one child Table) that he would have to pay as support for his child from the other relationship if that child were not living with him and the child's mother has no income. If Bob's gross income is $1,800 per month, the child support which he would have to pay for the child of his first relationship is $312, so that Bob's monthly gross income would be reduced from $1,800 to $1,488. Because the support Bob receives is also assumed to be completely spent for the child, it is not considered in the calculation.

Federal and Idaho Income Tax Benefit per Exemption[3]

Status at Calculation Date	Guidelines Income of Parent		1st Child	2nd Child	3rd Child	4th Child	5th Child
Remarried	Greater than	& Less than or Equal to					
		$12,000	$1,000	$350	$0	$0	$0
	$12,000	$14,000	$1,000	$500	$0	$0	$0
	$14,000	$16,000	$1,000	$800	$0	$0	$0
	$16,000	$18,000	$1,000	$1,000	$0	$0	$0
	$18,000	$20,000	$1,000	$1,000	$400	$0	$0
	$20,000	$22,000	$1,200	$1,000	$700	$0	$0
	$22,000	$24,000	$1,300	$1,000	$900	$0	$0
	$24,000	$26,000	$1,400	$1,100	$1,000	$200	$0
	$26,000	$28,000	$1,400	$1,300	$1,100	$500	$0
	$28,000	$30,000	$1,500	$1,500	$1,200	$600	$0
	$30,000	$32,000	$1,500	$1,500	$1,300	$1,000	$200
	$32,000	$34,000	$1,600	$1,600	$1,400	$1,200	$500
	$34,000	$36,000	$1,600	$1,600	$1,500	$1,400	$900
	$36,000	$38,000	$1,700	$1,700	$1,600	$1,500	$900
	$38,000	$40,000	$1,700	$1,700	$1,700	$1,600	$900
	$40,000	$42,000	$1,800	$1,700	$1,700	$1,600	$1,300
	$42,000	$44,000	$1,800	$1,800	$1,700	$1,700	$1,300
	$44,000	$46,000	$1,800	$1,900	$1,700	$1,700	$1,600
	$46,000	$48,000	$1,800	$1,900	$1,800	$1,700	$1,600
	$48,000	$50,000	$1,800	$1,900	$1,800	$1,800	$1,700
	$50,000	$52,000	$1,800	$1,900	$1,900	$1,800	$1,700
	$52,000	$54,000	$1,800	$1,900	$1,900	$1,800	$1,700
	$54,000	$56,000	$1,800	$1,900	$1,900	$1,900	$1,800
	$56,000	$58,000	$1,800	$1,900	$1,900	$1,900	$1,800
	$58,000	$60,000	$1,800	$1,900	$1,900	$1,900	$1,800
	$60,000	$62,000	$1,800	$1,900	$1,900	$1,900	$1,900

$62,000	**$64,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$64,000	**$66,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$66,000	**$68,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$68,000	**$70,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$70,000	**$72,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$72,000	**$74,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$74,000	**$76,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$76,000	**$78,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$78,000	**$80,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$80,000	**$82,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$82,000	**$84,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$84,000	**$86,000**	**$1,800**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$86,000	**$88,000**	**$1,900**	**$2,000**	**$1,900**	**$1,900**	**$1,900**
$88,000	**$90,000**	**$2,000**	**$2,000**	**$1,900**	**$1,900**	**$1,900**
$90,000	**$92,000**	**$2,100**	**$2,100**	**$1,900**	**$1,900**	**$1,900**
$92,000	**$94,000**	**$2,100**	**$2,100**	**$1,900**	**$1,900**	**$1,900**
$94,000	**$96,000**	**$2,200**	**$2,200**	**$2,000**	**$1,900**	**$1,900**
$96,000	**$98,000**	**$2,200**	**$2,200**	**$2,100**	**$2,000**	**$1,900**
$98,000	**$100,000**	**$2,200**	**$2,300**	**$2,200**	**$2,000**	**$1,900**
$100,000	**$102,000**	**$2,200**	**$2,300**	**$2,200**	**$2,100**	**$1,900**
$102,000	**$104,000**	**$2,200**	**$2,300**	**$2,200**	**$2,200**	**$1,900**
$104,000	**$106,000**	**$2,200**	**$2,300**	**$2,200**	**$2,200**	**$1,900**
$106,000	**$108,000**	**$2,200**	**$2,300**	**$2,200**	**$2,200**	**$2,000**
$108,000	**$110,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**	**$2,100**
$110,000	**$112,000**	**$2,100**	**$2,300**	**$2,300**	**$2,300**	**$2,200**
$112,000	**$114,000**	**$2,100**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$114,000	**$116,000**	**$2,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$116,000	**$118,000**	**$1,900**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$118,000	**$120,000**	**$1,800**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$120,000	**$122,000**	**$1,700**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$122,000	**$124,000**	**$1,600**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$124,000	**$126,000**	**$1,500**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$126,000	**$128,000**	**$1,400**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$128,000	**$130,000**	**$1,300**	**$2,200**	**$2,300**	**$2,300**	**$2,200**

$130,000	**$132,000**	**$1,200**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$132,000	**$134,000**	**$1,200**	**$2,200**	**$2,300**	**$2,300**	**$2,200**
$134,000	**$136,000**	**$1,200**	**$2,100**	**$2,300**	**$2,300**	**$2,200**
$136,000	**$138,000**	**$1,200**	**$2,000**	**$2,300**	**$2,300**	**$2,200**
$138,000	**$140,000**	**$1,200**	**$1,900**	**$2,300**	**$2,300**	**$2,200**
$140,000	**$142,000**	**$1,200**	**$1,800**	**$2,200**	**$2,300**	**$2,200**
$142,000	**$144,000**	**$1,200**	**$1,700**	**$2,200**	**$2,300**	**$2,200**
$144,000	**$146,000**	**$1,200**	**$1,600**	**$2,200**	**$2,300**	**$2,200**
$146,000	**$148,000**	**$1,200**	**$1,500**	**$2,200**	**$2,300**	**$2,200**
$148,000	**$150,000**	**$1,200**	**$1,400**	**$2,200**	**$2,300**	**$2,200**
$150,000	**$152,000**	**$1,200**	**$1,300**	**$2,200**	**$2,300**	**$2,200**
$152,000	**$154,000**	**$1,200**	**$1,300**	**$2,200**	**$2,300**	**$2,200**
$154,000	**$156,000**	**$1,200**	**$1,300**	**$2,100**	**$2,300**	**$2,200**
$156,000	**$158,000**	**$1,200**	**$1,300**	**$2,000**	**$2,300**	**$2,200**
$158,000	**$160,000**	**$1,200**	**$1,300**	**$1,900**	**$2,300**	**$2,200**
$160,000	**$162,000**	**$1,200**	**$1,300**	**$1,800**	**$2,300**	**$2,200**

Federal and Idaho Income Tax Benefit per Exemption[3]

Status at Calculation Date	**Guidelines Income of Parent**		**1st Child**	**2nd Child**	**3rd Child**	**4th Child**	**5th Child**
	Greater than	**& Less than or Equal to**					
Single - parent has custody		**$12,000**	**$1,000**	**$350**	**$0**	**$0**	**$0**
	$12,000	**$14,000**	**$1,100**	**$500**	**$0**	**$0**	**$0**
	$14,000	**$16,000**	**$1,200**	**$800**	**$0**	**$0**	**$0**
	$16,000	**$18,000**	**$1,400**	**$1,000**	**$300**	**$0**	**$0**
	$18,000	**$20,000**	**$1,500**	**$1,300**	**$400**	**$0**	**$0**
	$20,000	**$22,000**	**$1,600**	**$1,400**	**$800**	**$0**	**$0**
	$22,000	**$24,000**	**$1,600**	**$1,500**	**$1,200**	**$0**	**$0**

$24,000	**$26,000**	**$1,700**	**$1,500**	**$1,400**	**$400**	**$0**
$26,000	**$28,000**	**$1,800**	**$1,700**	**$1,400**	**$800**	**$0**
$28,000	**$30,000**	**$1,800**	**$1,800**	**$1,500**	**$1,200**	**$200**
$30,000	**$32,000**	**$1,800**	**$1,800**	**$1,700**	**$1,400**	**$800**
$32,000	**$34,000**	**$1,800**	**$1,800**	**$1,800**	**$1,400**	**$1,200**
$34,000	**$36,000**	**$1,900**	**$1,900**	**$1,800**	**$1,500**	**$1,400**
$36,000	**$38,000**	**$1,900**	**$1,900**	**$1,800**	**$1,700**	**$1,600**
$38,000	**$40,000**	**$1,900**	**$1,900**	**$1,800**	**$1,800**	**$1,700**
$40,000	**$42,000**	**$1,900**	**$1,900**	**$1,900**	**$1,800**	**$1,800**
$42,000	**$44,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**	**$1,800**
$44,000	**$46,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$46,000	**$48,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$48,000	**$50,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$50,000	**$52,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$52,000	**$54,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$54,000	**$56,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$56,000	**$58,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$58,000	**$60,000**	**$2,000**	**$1,900**	**$1,900**	**$1,900**	**$1,900**
$60,000	**$62,000**	**$2,000**	**$2,000**	**$1,900**	**$1,900**	**$1,900**
$62,000	**$64,000**	**$2,100**	**$2,000**	**$2,000**	**$1,900**	**$1,900**
$64,000	**$66,000**	**$2,100**	**$2,100**	**$2,100**	**$1,900**	**$1,900**
$66,000	**$68,000**	**$2,100**	**$2,100**	**$2,100**	**$2,000**	**$1,900**
$68,000	**$70,000**	**$2,100**	**$2,100**	**$2,100**	**$2,000**	**$2,000**
$70,000	**$72,000**	**$2,200**	**$2,200**	**$2,100**	**$2,100**	**$2,000**
$72,000	**$74,000**	**$2,200**	**$2,200**	**$2,200**	**$2,200**	**$2,100**
$74,000	**$76,000**	**$2,300**	**$2,200**	**$2,200**	**$2,200**	**$2,200**
$76,000	**$78,000**	**$2,100**	**$2,200**	**$2,200**	**$2,200**	**$2,200**
$78,000	**$80,000**	**$2,000**	**$2,300**	**$2,300**	**$2,200**	**$2,200**
$80,000	**$82,000**	**$1,900**	**$2,300**	**$2,300**	**$2,300**	**$2,300**
$82,000	**$84,000**	**$1,800**	**$2,300**	**$2,300**	**$2,300**	**$2,300**
$84,000	**$86,000**	**$1,700**	**$2,300**	**$2,300**	**$2,300**	**$2,300**
$86,000	**$88,000**	**$1,600**	**$2,300**	**$2,300**	**$2,300**	**$2,300**
$88,000	**$90,000**	**$1,500**	**$2,300**	**$2,300**	**$2,300**	**$2,300**
$90,000	**$92,000**	**$1,400**	**$2,300**	**$2,300**	**$2,300**	**$2,300**

$92,000	**$94,000**	**$1,300**	**$2,300**	**$2,300**	**$2,300**	**$2,300**
$94,000	**$96,000**	**$1,300**	**$2,200**	**$2,300**	**$2,300**	**$2,300**
$96,000	**$98,000**	**$1,300**	**$2,100**	**$2,300**	**$2,300**	**$2,300**
$98,000	**$100,000**	**$1,300**	**$2,100**	**$2,300**	**$2,300**	**$2,300**
$100,000	**$102,000**	**$1,300**	**$2,000**	**$2,300**	**$2,300**	**$2,300**
$102,000	**$104,000**	**$1,300**	**$1,900**	**$2,300**	**$2,300**	**$2,300**
$104,000	**$106,000**	**$1,300**	**$1,800**	**$2,300**	**$2,300**	**$2,300**
$106,000	**$108,000**	**$1,300**	**$1,600**	**$2,300**	**$2,300**	**$2,300**
$108,000	**$110,000**	**$1,300**	**$1,500**	**$2,300**	**$2,300**	**$2,300**
$110,000	**$112,000**	**$1,300**	**$1,400**	**$2,300**	**$2,300**	**$2,300**
$112,000	**$114,000**	**$1,300**	**$1,300**	**$2,300**	**$2,300**	**$2,300**
$114,000	**$116,000**	**$1,300**	**$1,200**	**$2,300**	**$2,300**	**$2,300**
$116,000	**$118,000**	**$1,300**	**$1,200**	**$2,200**	**$2,300**	**$2,300**
$118,000	**$120,000**	**$1,300**	**$1,200**	**$2,100**	**$2,300**	**$2,300**
$120,000	**$122,000**	**$1,300**	**$1,200**	**$2,000**	**$2,300**	**$2,300**
$122,000	**$124,000**	**$1,300**	**$1,200**	**$1,900**	**$2,300**	**$2,300**
$124,000	**$126,000**	**$1,300**	**$1,200**	**$1,800**	**$2,300**	**$2,300**
$126,000	**$128,000**	**$1,300**	**$1,200**	**$1,700**	**$2,300**	**$2,300**
$128,000	**$130,000**	**$1,300**	**$1,200**	**$1,600**	**$2,200**	**$2,300**
$130,000	**$132,000**	**$1,300**	**$1,200**	**$1,500**	**$2,200**	**$2,300**

Federal and Idaho Income Tax Benefit per Exemption[3]

Status at Calculation Date	**Guidelines Income of Parent**		**1st Child**	**2nd Child**	**3rd Child**	**4th Child**	**5th Child**
	Greater than	**& Less than or Equal to**					
Single - parent does not have custody		**$10,000**	**$1,000**	**$100**	**$0**	**$0**	**$0**
	$10,000	**$12,000**	**$1,100**	**$200**	**$0**	**$0**	**$0**
	$12,000	**$14,000**	**$1,400**	**$500**	**$0**	**$0**	**$0**
	$14,000	**$16,000**	**$1,500**	**$1,000**	**$0**	**$0**	**$0**

$16,000	**$18,000**	**$1,600**	**$1,300**	**$300**	**$0**	**$0**
$18,000	**$20,000**	**$1,700**	**$1,400**	**$600**	**$0**	**$0**
$20,000	**$22,000**	**$1,800**	**$1,600**	**$1,000**	**$100**	**$0**
$22,000	**$24,000**	**$1,800**	**$1,700**	**$1,300**	**$300**	**$0**
$24,000	**$26,000**	**$1,800**	**$1,800**	**$1,500**	**$700**	**$100**
$26,000	**$28,000**	**$1,900**	**$1,800**	**$1,700**	**$1,000**	**$300**
$28,000	**$30,000**	**$1,900**	**$1,900**	**$1,700**	**$1,100**	**$500**
$30,000	**$32,000**	**$1,900**	**$1,900**	**$1,700**	**$1,200**	**$600**
$32,000	**$34,000**	**$1,900**	**$1,900**	**$1,800**	**$1,300**	**$700**
$34,000	**$36,000**	**$1,900**	**$1,900**	**$1,800**	**$1,400**	**$800**
$36,000	**$38,000**	**$1,900**	**$1,900**	**$1,800**	**$1,500**	**$900**
$38,000	**$40,000**	**$1,900**	**$1,900**	**$1,800**	**$1,700**	**$1,000**
$40,000	**$42,000**	**$1,900**	**$1,900**	**$1,800**	**$1,800**	**$1,300**
$42,000	**$44,000**	**$2,000**	**$1,900**	**$1,800**	**$1,800**	**$1,700**
$44,000	**$46,000**	**$2,000**	**$1,900**	**$1,900**	**$1,900**	**$1,800**
$46,000	**$48,000**	**$2,100**	**$2,000**	**$1,900**	**$1,900**	**$1,800**
$48,000	**$50,000**	**$2,200**	**$2,100**	**$1,900**	**$1,900**	**$1,800**
$50,000	**$52,000**	**$2,300**	**$2,100**	**$1,900**	**$1,900**	**$1,900**
$52,000	**$54,000**	**$2,200**	**$2,100**	**$2,100**	**$1,900**	**$1,900**
$54,000	**$56,000**	**$2,200**	**$2,300**	**$2,200**	**$1,900**	**$1,900**
$56,000	**$58,000**	**$2,200**	**$2,300**	**$2,200**	**$2,000**	**$1,900**
$58,000	**$60,000**	**$2,200**	**$2,300**	**$2,200**	**$2,100**	**$2,000**
$60,000	**$62,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**	**$2,100**
$62,000	**$64,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**	**$2,100**
$64,000	**$66,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**	**$2,100**
$66,000	**$68,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**	**$2,100**
$68,000	**$70,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**	**$2,100**
$70,000	**$72,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**	**$2,100**
$72,000	**$74,000**	**$2,200**	**$2,300**	**$2,300**	**$2,200**	**$2,100**
$74,000	**$76,000**	**$2,200**	**$2,300**	**$2,300**	**$2,300**	**$2,200**
$76,000	**$78,000**	**$2,100**	**$2,300**	**$2,300**	**$2,300**	**$2,200**
$78,000	**$80,000**	**$2,000**	**$2,300**	**$2,300**	**$2,300**	**$2,200**
$80,000	**$82,000**	**$1,900**	**$2,300**	**$2,300**	**$2,300**	**$2,200**
$82,000	**$84,000**	**$1,800**	**$2,300**	**$2,300**	**$2,300**	**$2,200**

$84,000	**$86,000**	**$1,800**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$86,000	**$88,000**	**$1,600**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$88,000	**$90,000**	**$1,500**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$90,000	**$92,000**	**$1,400**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$92,000	**$94,000**	**$1,300**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$94,000	**$96,000**	**$1,300**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$96,000	**$98,000**	**$1,300**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$98,000	**$100,000**	**$1,300**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$100,000	**$102,000**	**$1,300**	**$2,200**	**$2,200**	**$2,300**	**$2,300**
$102,000	**$104,000**	**$1,300**	**$2,100**	**$2,200**	**$2,300**	**$2,300**
$104,000	**$106,000**	**$1,300**	**$2,000**	**$2,200**	**$2,300**	**$2,300**
$106,000	**$108,000**	**$1,300**	**$1,900**	**$2,200**	**$2,300**	**$2,300**
$108,000	**$110,000**	**$1,300**	**$1,800**	**$2,200**	**$2,300**	**$2,300**
$110,000	**$112,000**	**$1,300**	**$1,700**	**$2,200**	**$2,300**	**$2,300**
$112,000	**$114,000**	**$1,300**	**$1,600**	**$2,200**	**$2,300**	**$2,300**
$114,000	**$116,000**	**$1,300**	**$1,500**	**$2,300**	**$2,300**	**$2,400**
$116,000	**$118,000**	**$1,300**	**$1,500**	**$2,300**	**$2,300**	**$2,400**
$118,000	**$120,000**	**$1,300**	**$1,500**	**$2,200**	**$2,300**	**$2,400**
$120,000	**$122,000**	**$1,300**	**$1,500**	**$2,100**	**$2,300**	**$2,400**
$122,000	**$124,000**	**$1,300**	**$1,500**	**$2,000**	**$2,300**	**$2,400**
$124,000	**$126,000**	**$1,300**	**$1,400**	**$1,900**	**$2,300**	**$2,400**

[3]

[3] These Guidelines attempt to calculate a deduction that is accurate as of the date the chart is implemented; however, the tax laws may change and the court may deviate from these calculations upon a showing that it is not accurate in a particular case. Parties should bear in mind if they wish to contest a calculation that this chart includes tax calculations for a dependency exemption for each dependent and child tax credits, and does not include a calculation for a child care tax credit or an earned income credit.

For purposes of calculation of the Idaho child support obligation, tax benefit includes both the dependency exemption benefit and the child tax credit benefit. The tax benefit includes the refundable and nonrefundable portion of the child tax credit. The child tax credit of $1,000 is not available in the year a child turns 17 or thereafter. To determine the tax benefit to a parent with a child over 17, go to the last column to the right for the number of children in the calculation, and use only the amount in that column in excess of $1,000.

4. Health insurance premiums and health care expenses not covered by insurance.
   a. For each child support order, consideration should be given to provision of adequate health insurance coverage for the child. Such health insurance should normally be provided by the parent that can obtain suitable coverage through an employer at the lower cost. The actual cost paid by either parent for health insurance premiums or for health care expenses for the children not covered or paid in full by insurance, including, but not limited to orthodontic, optical, dental, psychological and prescription medication, shall be prorated between the parents in proportion to their Guidelines Income. These payments shall be in addition to basic child support and will be paid directly between the parties; however, the prorata share of the monthly insurance premium may instead be either a credit against or in addition to basic child support.
   b. Any claimed health care expense for the children, whether or not covered by insurance, which would result in an actual out-of-pocket expense to the other parent of over $500 for the course of treatment, must be approved in advance, in writing, by both parents or by prior court order. Relief may be granted by the Court for failure to comply under extraordinary circumstances, and the Court may in its discretion apportion the incurred expense in some percentage other than that in the existing support order, and in so doing, may consider whether consent was unreasonably requested or withheld.

5. Disability dependency benefits or retirement dependency benefits. Any disability dependency benefits or retirement dependency benefits paid to a child support recipient for the benefit of a child due to the disability or retirement of a parent obligated to pay support for the child should be considered in determining a child support award. Unless otherwise stipulated by the parties, the court should order the support payment be reduced by the amount of any dependency benefits paid to the support recipient. Under no circumstances shall the obligated parent be entitled to the reimbursement of any dependency benefits that exceed the support payment amount. Any payments due to the disability of the child shall not be credited against the support obligation of the obligated parent.

I. Income verification. In all cases (contested, uncontested, or stipulated), the Affidavit Verifying Income and the Child Support Worksheet shall be provided to the court by the plaintiff or moving party. They shall be in substantially the forms attached as Appendix A and B or C to these Guidelines. The Affidavits Verifying Income and the Child Support Worksheets shall be placed in the court file. The court may order the periodic exchange of documented income information by Affidavit Verifying Income or otherwise in any child support order.

J. Computations.

1. Basic child support. The basic child support obligation shall be based upon the Guidelines Income of both parents, according to the rates set out in the schedules below: (the amounts are rounded off to the nearest dollar)

One (1) Child	Per Month	Per Year
18% of the 1st $ 10,000 of combined Guidelines Income	150	1,800
17% of the next $ 10,000 of combined Guidelines Income	142	1,700
15% of the next $ 10,000 of combined Guidelines Income	125	1,500

14% of the next $ 10,000 of combined Guidelines Income	117	1,400
13% of the next $ 10,000 of combined Guidelines Income	108	1,300
12% of the next $ 20,000 of combined Guidelines Income	200	2,400
9% of the next $ 20,000 of combined Guidelines Income	150	1,800
6% of the next $ 20,000 of combined Guidelines Income	100	1,200
5% of the next $ 20,000 of combined Guidelines Income	83	1,000
5% of the next $ 20,000 of combined Guidelines Income	83	1,000
	1,258	15,100
5% of the next $150,000 of combined Guideline Income		

Two (2) Children	**Per Month**	**Per Year**
26% of the 1st $ 10,000 of combined Guidelines Income	217	2,600
25% of the next $ 10,000 of combined Guidelines Income	208	2,500
23% of the next $ 10,000 of combined Guidelines Income	192	2,300
22% of the next $ 10,000 of combined Guidelines Income	183	2,200
20% of the next $ 10,000 of combined Guidelines Income	167	2,000
17% of the next $ 20,000 of combined Guidelines Income	283	3,400
13% of the next $ 20,000 of combined Guidelines Income	217	2,600
9% of the next $ 20,000 of combined Guidelines Income	150	1,800
8% of the next $ 20,000 of combined Guidelines Income	133	1,600
8% of the next $ 20,000 of combined Guidelines Income	133	1,600
	1,883	22,600
8% of the next $150,000 of combined Guideline Income		

Three (3) Children	Per Month	Per Year
30% of the 1st $ 10,000 of combined Guidelines Income	250	3,000
29% of the next $ 10,000 of combined Guidelines Income	242	2,900
27% of the next $ 10,000 of combined Guidelines Income	225	2,700
26% of the next $ 10,000 of combined Guidelines Income	217	2,600
24% of the next $ 10,000 of combined Guidelines Income	200	2,400
20% of the next $ 20,000 of combined Guidelines Income	333	4,000
16% of the next $ 20,000 of combined Guidelines Income	267	3,200
12% of the next $ 20,000 of combined Guidelines Income	200	2,400
11% of the next $ 20,000 of combined Guidelines Income	183	2,200
11% of the next $ 20,000 of combined Guidelines Income	183	2,200
	2,300	27,600
11% of the next $150,000 of combined Guideline Income		

Four (4) Children	Per Month	Per Year
33% of the 1st $ 10,000 of combined Guidelines Income	275	3,300
32% of the next $ 10,000 of combined Guidelines Income	267	3,200
30% of the next $ 10,000 of combined Guidelines Income	250	3,000
29% of the next $ 10,000 of combined Guidelines Income	242	2,900
27% of the next $ 10,000 of combined Guidelines Income	225	2,700
22% of the next $ 20,000 of combined Guidelines Income	367	4,400
18% of the next $ 20,000 of combined Guidelines Income	300	3,600
14% of the next $ 20,000 of combined Guidelines Income	233	2,800
13% of the next $ 20,000 of combined Guidelines Income	217	2,600
13% of the next $ 20,000 of combined Guidelines Income	217	2,600

	2,592	31,100
13% of the next $150,000 of combined Guideline Income		

Five (5) Children	**Per Month**	**Per Year**
36% of the 1st $ 10,000 of combined Guidelines Income	300	3,600
35% of the next $ 10,000 of combined Guidelines Income	292	3,500
33% of the next $ 10,000 of combined Guidelines Income	275	3,300
32% of the next $ 10,000 of combined Guidelines Income	267	3,200
30% of the next $ 10,000 of combined Guidelines Income	250	3,000
24% of the next $ 20,000 of combined Guidelines Income	400	4,800
20% of the next $ 20,000 of combined Guidelines Income	333	4,000
16% of the next $ 20,000 of combined Guidelines Income	267	3,200
15% of the next $ 20,000 of combined Guidelines Income	250	3,000
15% of the next $ 20,000 of combined Guidelines Income	250	3,000
	2,883	34,600
15% of the next $150,000 of combined Guideline Income		

Samples of these obligations are set forth in the following Basic Monthly Child Support Guidelines Schedule:

BASIC MONTHLY CHILD SUPPORT GUIDELINES SCHEDULE

NUMBER OF CHILDREN

(PAYMENT AMOUNT BY MONTH)

Combined Gross Monthly Income	**One**	**Two**	**Three**	**Four**	**Five**	**Annual Income**
$500	$90	$130	$150	$165	$180	$6,000
$600	$108	$156	$180	$198	$216	$7,200
$700	$126	$182	$210	$231	$252	$8,400
$800	$144	$208	$240	$264	$288	$9,600
$900	$161	$233	$269	$296	$323	$10,800

$1,000	$178	$258	$298	$328	$358	$12,000
$1,100	$195	$283	$327	$360	$393	$13,200
$1,200	$212	$308	$356	$392	$428	$14,400
$1,300	$229	$333	$385	$424	$463	$15,600
$1,400	$246	$358	$414	$456	$498	$16,800
$1,500	$263	$383	$443	$488	$533	$18,000
$1,600	$280	$408	$472	$520	$568	$19,200
$1,700	$297	$433	$501	$552	$603	$20,400
$1,800	$312	$456	$528	$582	$636	$21,600
$1,900	$327	$479	$555	$612	$669	$22,800
$2,000	$342	$502	$582	$642	$702	$24,000
$2,100	$357	$525	$609	$672	$735	$25,200
$2,200	$372	$548	$636	$702	$768	$26,400
$2,300	$387	$571	$663	$732	$801	$27,600
$2,400	$402	$594	$690	$762	$834	$28,800
$2,500	$417	$617	$717	$792	$867	$30,000
$2,600	$431	$639	$743	$821	$899	$31,200
$2,700	$445	$661	$769	$850	$931	$32,400
$2,800	$459	$683	$795	$879	$963	$33,600
$2,900	$473	$705	$821	$908	$995	$34,800
$3,000	$487	$727	$847	$937	$1,027	$36,000
$3,100	$501	$749	$873	$966	$1,059	$37,200
$3,200	$515	$771	$899	$995	$1,091	$38,400
$3,300	$529	$793	$925	$1,024	$1,123	$39,600
$3,400	$542	$813	$949	$1,051	$1,153	$40,800
$3,500	$555	$833	$973	$1,078	$1,183	$42,000
$3,600	$568	$853	$997	$1,105	$1,213	$43,200
$3,700	$581	$873	$1,021	$1,132	$1,243	$44,400
$3,800	$594	$893	$1,045	$1,159	$1,273	$45,600
$3,900	$607	$913	$1,069	$1,186	$1,303	$46,800
$4,000	$620	$933	$1,093	$1,213	$1,333	$48,000
$4,100	$633	$953	$1,117	$1,240	$1,363	$49,200
$4,200	$646	$972	$1,140	$1,266	$1,391	$50,400
$4,300	$658	$989	$1,160	$1,288	$1,415	$51,600
$4,400	$670	$1,006	$1,180	$1,310	$1,439	$52,800
$4,500	$682	$1,023	$1,200	$1,332	$1,463	$54,000

$4,600	$694	$1,040	$1,220	$1,354	$1,487	$55,200
$4,700	$706	$1,057	$1,240	$1,376	$1,511	$56,400
$4,800	$718	$1,074	$1,260	$1,398	$1,535	$57,600
$4,900	$730	$1,091	$1,280	$1,420	$1,559	$58,800
$5,000	$742	$1,108	$1,300	$1,442	$1,583	$60,000
$5,100	$754	$1,125	$1,320	$1,464	$1,607	$61,200
$5,200	$766	$1,142	$1,340	$1,486	$1,631	$62,400
$5,300	$778	$1,159	$1,360	$1,508	$1,655	$63,600
$5,400	$790	$1,176	$1,380	$1,530	$1,679	$64,800
$5,500	$802	$1,193	$1,400	$1,552	$1,703	$66,000
$5,600	$814	$1,210	$1,420	$1,574	$1,727	$67,200
$5,700	$826	$1,227	$1,440	$1,596	$1,751	$68,400
$5,800	$838	$1,244	$1,460	$1,618	$1,775	$69,600
$5,900	$848	$1,259	$1,477	$1,637	$1,797	$70,800
$6,000	$857	$1,272	$1,493	$1,655	$1,817	$72,000
$6,100	$866	$1,285	$1,509	$1,673	$1,837	$73,200
$6,200	$875	$1,298	$1,525	$1,691	$1,857	$74,400
$6,300	$884	$1,311	$1,541	$1,709	$1,877	$75,600
$6,400	$893	$1,324	$1,557	$1,727	$1,897	$76,800
$6,500	$902	$1,337	$1,573	$1,745	$1,917	$78,000
$6,600	$911	$1,350	$1,589	$1,763	$1,937	$79,200
$6,700	$920	$1,363	$1,605	$1,781	$1,957	$80,400
$6,800	$929	$1,376	$1,621	$1,799	$1,977	$81,600
$6,900	$938	$1,389	$1,637	$1,817	$1,997	$82,800
$7,000	$947	$1,402	$1,653	$1,835	$2,017	$84,000
$7,100	$956	$1,415	$1,669	$1,853	$2,037	$85,200
$7,200	$965	$1,428	$1,685	$1,871	$2,057	$86,400
$7,300	$974	$1,441	$1,701	$1,889	$2,077	$87,600
$7,400	$983	$1,454	$1,717	$1,907	$2,097	$88,800
$7,500	$992	$1,467	$1,733	$1,925	$2,117	$90,000
$7,600	$998	$1,476	$1,745	$1,939	$2,133	$91,200
$7,700	$1,004	$1,485	$1,757	$1,953	$2,149	$92,400
$7,800	$1,010	$1,494	$1,769	$1,967	$2,165	$93,600
$7,900	$1,016	$1,503	$1,781	$1,981	$2,181	$94,800
$8,000	$1,022	$1,512	$1,793	$1,995	$2,197	$96,000
$8,100	$1,028	$1,521	$1,805	$2,009	$2,213	$97,200

$8,200	$1,034	$1,530	$1,817	$2,023	$2,229	$98,400
$8,300	$1,040	$1,539	$1,829	$2,037	$2,245	$99,600
$8,400	$1,046	$1,548	$1,841	$2,051	$2,261	$100,800
$8,500	$1,052	$1,557	$1,853	$2,065	$2,277	$102,000
$8,600	$1,058	$1,566	$1,865	$2,079	$2,293	$103,200
$8,700	$1,064	$1,575	$1,877	$2,093	$2,309	$104,400
$8,800	$1,070	$1,584	$1,889	$2,107	$2,325	$105,600
$8,900	$1,076	$1,593	$1,901	$2,121	$2,341	$106,800
$9,000	$1,082	$1,602	$1,913	$2,135	$2,357	$108,000
$9,100	$1,088	$1,611	$1,925	$2,149	$2,373	$109,200
$9,200	$1,093	$1,619	$1,937	$2,163	$2,388	$110,400
$9,300	$1,098	$1,627	$1,948	$2,176	$2,403	$111,600
$9,400	$1,103	$1,635	$1,959	$2,189	$2,418	$112,800
$9,500	$1,108	$1,643	$1,970	$2,202	$2,433	$114,000
$9,600	$1,113	$1,651	$1,981	$2,215	$2,448	$115,200
$9,700	$1,118	$1,659	$1,992	$2,228	$2,463	$116,400
$9,800	$1,123	$1,667	$2,003	$2,241	$2,478	$117,600
$9,900	$1,128	$1,675	$2,014	$2,254	$2,493	$118,800
$10,000	$1,133	$1,683	$2,025	$2,267	$2,508	$120,000
$10,100	$1,138	$1,691	$2,036	$2,280	$2,523	$121,200
$10,200	$1,143	$1,699	$2,047	$2,293	$2,538	$122,400
$10,300	$1,148	$1,707	$2,058	$2,306	$2,553	$123,600
$10,400	$1,153	$1,715	$2,069	$2,319	$2,568	$124,800
$10,500	$1,158	$1,723	$2,080	$2,332	$2,583	$126,000
$10,600	$1,163	$1,731	$2,091	$2,345	$2,598	$127,200
$10,700	$1,168	$1,739	$2,102	$2,358	$2,613	$128,400
$10,800	$1,173	$1,747	$2,113	$2,371	$2,628	$129,600
$10,900	$1,178	$1,755	$2,124	$2,384	$2,643	$130,800
$11,000	$1,183	$1,763	$2,135	$2,397	$2,658	$132,000
$11,100	$1,188	$1,771	$2,146	$2,410	$2,673	$133,200
$11,200	$1,193	$1,779	$2,157	$2,423	$2,688	$134,400
$11,300	$1,198	$1,787	$2,168	$2,436	$2,703	$135,600
$11,400	$1,203	$1,795	$2,179	$2,449	$2,718	$136,800
$11,500	$1,208	$1,803	$2,190	$2,462	$2,733	$138,000
$11,600	$1,213	$1,811	$2,201	$2,475	$2,748	$139,200
$11,700	$1,218	$1,819	$2,212	$2,488	$2,763	$140,400

$11,800	$1,223	$1,827	$2,223	$2,501	$2,778	$141,600
$11,900	$1,228	$1,835	$2,234	$2,514	$2,793	$142,800
$12,000	$1,233	$1,843	$2,245	$2,527	$2,808	$144,000
$12,100	$1,238	$1,851	$2,256	$2,540	$2,823	$145,200
$12,200	$1,243	$1,859	$2,267	$2,553	$2,838	$146,400
$12,300	$1,248	$1,867	$2,278	$2,566	$2,853	$147,600
$12,400	$1,253	$1,875	$2,289	$2,579	$2,868	$148,800
$12,500	$1,258	$1,883	$2,300	$2,592	$2,883	$150,000
$12,600	$1,263	$1,891	$2,311	$2,605	$2,898	$151,200
$12,700	$1,268	$1,899	$2,322	$2,618	$2,913	$152,400
$12,800	$1,273	$1,907	$2,333	$2,631	$2,928	$153,600
$12,900	$1,278	$1,915	$2,344	$2,644	$2,943	$154,800
$13,000	$1,283	$1,923	$2,355	$2,657	$2,958	$156,000
$13,100	$1,288	$1,931	$2,366	$2,670	$2,973	$157,200
$13,200	$1,293	$1,939	$2,377	$2,683	$2,988	$158,400
$13,300	$1,298	$1,947	$2,388	$2,696	$3,003	$159,600
$13,400	$1,303	$1,955	$2,399	$2,709	$3,018	$160,800
$13,500	$1,308	$1,963	$2,410	$2,722	$3,033	$162,000
$13,600	$1,313	$1,971	$2,421	$2,735	$3,048	$163,200
$13,700	$1,318	$1,979	$2,432	$2,748	$3,063	$164,400
$13,800	$1,323	$1,987	$2,443	$2,761	$3,078	$165,600
$13,900	$1,328	$1,995	$2,454	$2,774	$3,093	$166,800
$14,000	$1,333	$2,003	$2,465	$2,787	$3,108	$168,000
$14,100	$1,338	$2,011	$2,476	$2,800	$3,123	$169,200
$14,200	$1,343	$2,019	$2,487	$2,813	$3,138	$170,400
$14,300	$1,348	$2,027	$2,498	$2,826	$3,153	$171,600
$14,400	$1,353	$2,035	$2,509	$2,839	$3,168	$172,800
$14,500	$1,358	$2,043	$2,520	$2,852	$3,183	$174,000
$14,600	$1,363	$2,051	$2,531	$2,865	$3,198	$175,200
$14,700	$1,368	$2,059	$2,542	$2,878	$3,213	$176,400
$14,800	$1,373	$2,067	$2,553	$2,891	$3,228	$177,600
$14,900	$1,378	$2,075	$2,564	$2,904	$3,243	$178,800
$15,000	$1,383	$2,083	$2,575	$2,917	$3,258	$180,000
$15,100	$1,388	$2,091	$2,586	$2,930	$3,273	$181,200
$15,200	$1,393	$2,099	$2,597	$2,943	$3,288	$182,400
$15,300	$1,398	$2,107	$2,608	$2,956	$3,303	$183,600

$15,400	$1,403	$2,115	$2,619	$2,969	$3,318	$184,800
$15,500	$1,408	$2,123	$2,630	$2,982	$3,333	$186,000
$15,600	$1,413	$2,131	$2,641	$2,995	$3,348	$187,200
$15,700	$1,418	$2,139	$2,652	$3,008	$3,363	$188,400
$15,800	$1,423	$2,147	$2,663	$3,021	$3,378	$189,600
$15,900	$1,428	$2,155	$2,674	$3,034	$3,393	$190,800
$16,000	$1,433	$2,163	$2,685	$3,047	$3,408	$192,000
$16,100	$1,438	$2,171	$2,696	$3,060	$3,423	$193,200
$16,200	$1,443	$2,179	$2,707	$3,073	$3,438	$194,400
$16,300	$1,448	$2,187	$2,718	$3,086	$3,453	$195,600
$16,400	$1,453	$2,195	$2,729	$3,099	$3,468	$196,800
$16,500	$1,458	$2,203	$2,740	$3,112	$3,483	$198,000
$16,600	$1,463	$2,211	$2,751	$3,125	$3,498	$199,200
$16,700	$1,468	$2,219	$2,762	$3,138	$3,513	$200,400
$16,800	$1,473	$2,227	$2,773	$3,151	$3,528	$201,600
$16,900	$1,478	$2,235	$2,784	$3,164	$3,543	$202,800
$17,000	$1,483	$2,243	$2,795	$3,177	$3,558	$204,000
$17,100	$1,488	$2,251	$2,806	$3,190	$3,573	$205,200
$17,200	$1,493	$2,259	$2,817	$3,203	$3,588	$206,400
$17,300	$1,498	$2,267	$2,828	$3,216	$3,603	$207,600
$17,400	$1,503	$2,275	$2,839	$3,229	$3,618	$208,800
$17,500	$1,508	$2,283	$2,850	$3,242	$3,633	$210,000
$17,600	$1,513	$2,291	$2,861	$3,255	$3,648	$211,200
$17,700	$1,518	$2,299	$2,872	$3,268	$3,663	$212,400
$17,800	$1,523	$2,307	$2,883	$3,281	$3,678	$213,600
$17,900	$1,528	$2,315	$2,894	$3,294	$3,693	$214,800
$18,000	$1,533	$2,323	$2,905	$3,307	$3,708	$216,000
$18,100	$1,538	$2,331	$2,916	$3,320	$3,723	$217,200
$18,200	$1,543	$2,339	$2,927	$3,333	$3,738	$218,400
$18,300	$1,548	$2,347	$2,938	$3,346	$3,753	$219,600
$18,400	$1,553	$2,355	$2,949	$3,359	$3,768	$220,800
$18,500	$1,558	$2,363	$2,960	$3,372	$3,783	$222,000
$18,600	$1,563	$2,371	$2,971	$3,385	$3,798	$223,200
$18,700	$1,568	$2,379	$2,982	$3,398	$3,813	$224,400
$18,800	$1,573	$2,387	$2,993	$3,411	$3,828	$225,600
$18,900	$1,578	$2,395	$3,004	$3,424	$3,843	$226,800

$19,000	$1,583	$2,403	$3,015	$3,437	$3,858	$228,000
$19,100	$1,588	$2,411	$3,026	$3,450	$3,873	$229,200
$19,200	$1,593	$2,419	$3,037	$3,463	$3,888	$230,400
$19,300	$1,598	$2,427	$3,048	$3,476	$3,903	$231,600
$19,400	$1,603	$2,435	$3,059	$3,489	$3,918	$232,800
$19,500	$1,608	$2,443	$3,070	$3,502	$3,933	$234,000
$19,600	$1,613	$2,451	$3,081	$3,515	$3,948	$235,200
$19,700	$1,618	$2,459	$3,092	$3,528	$3,963	$236,400
$19,800	$1,623	$2,467	$3,103	$3,541	$3,978	$237,600
$19,900	$1,628	$2,475	$3,114	$3,554	$3,993	$238,800
$20,000	$1,633	$2,483	$3,125	$3,567	$4,008	$240,000
$20,100	$1,638	$2,491	$3,136	$3,580	$4,023	$241,200
$20,200	$1,643	$2,499	$3,147	$3,593	$4,038	$242,400
$20,300	$1,648	$2,507	$3,158	$3,606	$4,053	$243,600
$20,400	$1,653	$2,515	$3,169	$3,619	$4,068	$244,800
$20,500	$1,658	$2,523	$3,180	$3,632	$4,083	$246,000
$20,600	$1,663	$2,531	$3,191	$3,645	$4,098	$247,200
$20,700	$1,668	$2,539	$3,202	$3,658	$4,113	$248,400
$20,800	$1,673	$2,547	$3,213	$3,671	$4,128	$249,600
$20,900	$1,678	$2,555	$3,224	$3,684	$4,143	$250,800
$21,000	$1,683	$2,563	$3,235	$3,697	$4,158	$252,000
$21,100	$1,688	$2,571	$3,246	$3,710	$4,173	$253,200
$21,200	$1,693	$2,579	$3,257	$3,723	$4,188	$254,400
$21,300	$1,698	$2,587	$3,268	$3,736	$4,203	$255,600
$21,400	$1,703	$2,595	$3,279	$3,749	$4,218	$256,800
$21,500	$1,708	$2,603	$3,290	$3,762	$4,233	$258,000
$21,600	$1,713	$2,611	$3,301	$3,775	$4,248	$259,200
$21,700	$1,718	$2,619	$3,312	$3,788	$4,263	$260,400
$21,800	$1,723	$2,627	$3,323	$3,801	$4,278	$261,600
$21,900	$1,728	$2,635	$3,334	$3,814	$4,293	$262,800
$22,000	$1,733	$2,643	$3,345	$3,827	$4,308	$264,000
$22,100	$1,738	$2,651	$3,356	$3,840	$4,323	$265,200
$22,200	$1,743	$2,659	$3,367	$3,853	$4,338	$266,400
$22,300	$1,748	$2,667	$3,378	$3,866	$4,353	$267,600
$22,400	$1,753	$2,675	$3,389	$3,879	$4,368	$268,800
$22,500	$1,758	$2,683	$3,400	$3,892	$4,383	$270,000

$22,600	$1,763	$2,691	$3,411	$3,905	$4,398	$271,200
$22,700	$1,768	$2,699	$3,422	$3,918	$4,413	$272,400
$22,800	$1,773	$2,707	$3,433	$3,931	$4,428	$273,600
$22,900	$1,778	$2,715	$3,444	$3,944	$4,443	$274,800
$23,000	$1,783	$2,723	$3,455	$3,957	$4,458	$276,000
$23,100	$1,788	$2,731	$3,466	$3,970	$4,473	$277,200
$23,200	$1,793	$2,739	$3,477	$3,983	$4,488	$278,400
$23,300	$1,798	$2,747	$3,488	$3,996	$4,503	$279,600
$23,400	$1,803	$2,755	$3,499	$4,009	$4,518	$280,800
$23,500	$1,808	$2,763	$3,510	$4,022	$4,533	$282,000
$23,600	$1,813	$2,771	$3,521	$4,035	$4,548	$283,200
$23,700	$1,818	$2,779	$3,532	$4,048	$4,563	$284,400
$23,800	$1,823	$2,787	$3,543	$4,061	$4,578	$285,600
$23,900	$1,828	$2,795	$3,554	$4,074	$4,593	$286,800
$24,000	$1,833	$2,803	$3,565	$4,087	$4,608	$288,000
$24,100	$1,838	$2,811	$3,576	$4,100	$4,623	$289,200
$24,200	$1,843	$2,819	$3,587	$4,113	$4,638	$290,400
$24,300	$1,848	$2,827	$3,598	$4,126	$4,653	$291,600
$24,400	$1,853	$2,835	$3,609	$4,139	$4,668	$292,800
$24,500	$1,858	$2,843	$3,620	$4,152	$4,683	$294,000
$24,600	$1,863	$2,851	$3,631	$4,165	$4,698	$295,200
$24,700	$1,868	$2,859	$3,642	$4,178	$4,713	$296,400
$24,800	$1,873	$2,867	$3,653	$4,191	$4,728	$297,600
$24,900	$1,878	$2,875	$3,664	$4,204	$4,743	$298,800
$25,000	$1,883	$2,883	$3,675	$4,217	$4,758	$300,000

2. The guidelines income and the children's schedules in these Child Support Guidelines are not limitations on child support for more than five children.

3. Proration of Child Support. Where both parents have Guidelines Income (either actual or potential) the amount of child support awarded shall be prorated between the parents in proportion to their Guidelines Incomes.

Example. If a couple has two children and the non-custodial parent earns $25,000 a year and the custodial parent $10,000 a year, the child support would be based upon their combined $35,000 of Guideline income at the rates set out above. The first $10,000 would accrue child support at the two-child 26% rate ($217 per month), the second $10,000 would accrue child support at the two-child 25% rate ($208 per month), the next $10,000 at the two-child 23% rate ($192 per month), and $5,000 at the two-child 22% rate ($92 per month), for a total child support obligation of $709 per month. That total amount of child support would be divided between the

parents in proportion of their Guideline incomes, 10,000/35,000 and 25,000/35,000. Based on these figures, the non-custodial parent would pay 71%, $506 per month to the custodial parent.

4. Income over $300,000. The Guideline Income schedules are not a limitation on the award of child support for combined Guidelines Income above $300,000 per year. The support based on the first $300,000 shall be calculated by these Guidelines in proportion to the relative incomes of the parents. In determining any additional support for Guidelines Income above $300,000, the court shall consider all relevant factors, which may include:
    a. The financial resources of the child.
    b. The financial resources, needs, and obligations of both parents, consistent with Section F.1.c.
    c. The standard of living the child enjoyed during the marriage.
    d. The physical and emotional condition and needs of the child, including educational needs.
    e. Any special impairment, limitation or disability of the child and any need for special education.
    f. Any special ability or talent of the child and the cost of educating or training that ability or talent.
    g. Any special living conditions that create additional costs for the child.

5. “Shared Physical Custody.”
    a. Determining Shared Custody. It is recognized there is an overall increase in child rearing costs created by shared custody. If the child spends more than 25% of the overnights in a year with each parent, an adjustment in the Guidelines amount shall be made.”
    b. Computation. To compute the adjustment, the Basic Child Support Guideline obligation shall be multiplied by 1.5. The amount is then multiplied by each parent's percentage of income. The resulting amounts are then multiplied by the percentage of time the child spends with the other parent. The respective child support obligations are then offset, with the parent owing more child support paying the difference between the two amounts. In no event shall a parent be required to pay more support than the parent would have paid had there not been split or shared custody and all children were residing with the other parent. Whenever the guidelines calculation results in a parent having over 50% of the overnights paying child support, that parent may show that such payment is inappropriate considering factors a through g of section J.4 of the Guidelines.

6. Extended Visits. In cases where a parent has 25% or less of the overnights, the Court may reduce the amount of support if a parent has the child for fourteen consecutive days or more. Interim visitation of two days or less with the other parent will not defeat abatement of child support during extended visits. A reasonable reduction would be 50% for the duration of the actual physical custody.

7. Split Physical Custody.
    a. Adjustment of Support. When each parent has physical custody of at least one child, an adjustment shall be made. Under the Guidelines, the Basic Child Support Obligation is multiplied by 1.5 for an equal number of children in the custody of each parent. Support is calculated without a multiplier for the other child(ren) in the home. The support amount is then determined for each parent for the child(ren) in

the custody of the other. The obligations are then offset, with the parent owing the larger amount paying the difference between the two amounts.

b. Computation of Support. In determining child support amounts under a split custody arrangement, the support obligations shown in the schedule must be pro-rated among all children in the household, using the multiplier where applicable. For example, if there are three children due support, of which two are with one parent and one is with the other, the Basic Monthly Child Support is divided by three, and that amount is assigned to one of the children in the two-child home. That same amount is multiplied by 1.5 and assigned to one child in each home. Support is then calculated for each parent and the amounts offset. In no event shall a parent be required to pay more support than the parent would have paid had there not been split custody and all children were residing with the other parent.[4]

Example 1: There are two children living with each parent; Parent One has income of $3,000 per month, while Parent Two's monthly income is $1,000. Basic Child Support from the schedule for the four is $1,173. For each of the two children living with Parent Two we assign one-fourth of that amount, or $293. For each of them that amount is multiplied by 1.5, which is $440. The support for each of the children living with Parent One is computed in the same fashion. Parent One is obligated for 75% of the support of the children living with Parent Two, because Parent One earns 75% of the total income. That would be.75 x 440 x 2 = $660. Parent Two is obligated for 25% of the support of the children living with Parent One. That would be.25 x 440 x 2 = $220. Offsetting the amounts, Parent One would pay Parent Two approximately $440 per month.

Example 2: There are three children living with Parent Two, and one with Parent One. Incomes: Parent One--$3,000/month--Parent Two--$1,000/month. Going to the Basic Child Support Guidelines Schedule, the Basic Child Support for the four is $1,173 monthly. Dividing by four results in $293 for each child. For one child in each home that amount is to be multiplied by 1.5, setting the support for each of them at $440. The other two children in the home of Parent Two are to be supported at the base level. Therefore, the total support amount for the three children living with Parent Two is $440 + (2 x 293) = $1,026. Parent One earns 75 percent of the total income and therefore is obligated for 75 percent of the total support for those children. That would be.75 x $1,026= $769.50. Parent Two must provide 25 percent of the total support for the child living with Parent One, or .25 x $440= $110. Offsetting the amounts, Parent One should pay Parent Two about $660 per month.

K. Disability and retirement benefits paid to child (Repealed.)

L. Expression of child support. The court's order shall state the total monetary support for all children and the total monetary support due the remaining children as each child is no longer entitled to support.

Example: If there are three children initially, and later one child emancipates, the amount of support will not be reduced by one-third, but will reflect the appropriate amount from the schedule for two children, and later one child.

[4] A mathematical disparity may occur when there are five or more children and a substantial difference in incomes. In that case, if one child lives with the higher-come parent the support obligation may be more than if all children lived with the lower-income parent.

II. PLEADINGS

Rule 201. Commencement of Action

A. Commencement of a family law proceeding. A family law action is commenced by filing a petition with the clerk of the court. The party filing the initial petition shall be designated as the petitioner and any party against whom it is filed shall be designated as the respondent. A petition shall not be filed unless and until the initial petitioner furnishes to the clerk a completed family law case information sheet [excluding social security numbers] on a form adopted by the Supreme Court and furnished by the clerk. This family law case information sheet shall be exempt from disclosure according to I.C.A.R. 32(d). No claim, controversy or dispute may be submitted to any court in the state for determination or judgment without filing a petition as provided in these rules; nor shall any judgment or decree be entered by any court without service of process upon all parties affected by the judgment or decree in the manner prescribed by these rules. During the pendency of an action, parties who are not represented by counsel shall keep the court apprised of their current mailing addresses. Each attorney and unrepresented party shall notify the court within fourteen (14) days of any changes in the party's mailing address.

B. Commencement of a protection order proceeding. An action for a domestic violence protection order must be commenced by the filing of a petition based on sworn Affidavit in the form approved by the Supreme Court and may not be filed unless accompanied by information in whatever form required by the court to allow entry of the protection order into the Idaho Law Enforcement Telecommunications System (to be transferred by the court to the appropriate law enforcement agency with any signed order). A copy of this information form shall not be maintained in the court file. Such action may be commenced or defended on behalf of a minor as set forth in Rule 114.

C. Proceedings to modify child custody, child support and spousal maintenance. A motion to modify child custody, child support or spousal maintenance (alimony) shall be served and adjudicated in substantially the same manner as an original proceeding, but the filing of a motion to modify child custody, child support or spousal maintenance orders shall not be deemed the commencement of an action under Idaho Code Section 5-404. The motion shall be in a form similar to an original petition and shall be served upon all parties entitled to service along with (1) a summons and (2) any notices, forms and orders issued by the court at the time of filing of the motion. The method of service and return thereon shall be the same as for an original action and service shall be on the opposing party rather than on the previous attorney of record for the party. All averments of substantial and material changes in circumstances supporting a motion to modify child custody shall be stated with particularity.

Rule 202. Real Party in Interest

Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, personal representative, guardian, conservator, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in this capacity without joining the party for whose benefit the action is brought; and when a statute of the state of Idaho so provides, an action for the use or benefit of another shall be brought in the name of the state of Idaho. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of

the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

Rule 203. Pleadings Allowed

A. Petition. A party shall commence actions for the following causes by filing a petition with the clerk of the court: Annulment (I.C. § 32-501 et seq.); Divorce (I.C. § 32-601 et seq.); Legal Separation (I.C. § 32-704 (2)); Separate Maintenance; Child Custody; Domestic Violence Protection Order (I.C. § 39-6304); Paternity (I.C. § 7-1101 et seq.); to establish, enforce, register, or modify custody or parenting time (I.C. § 32-11-101 et seq.); or to establish, enforce, register or modify support (I.C. § 7-1001 et seq.).

B. Appearance of parties and child; warrant to take physical custody of a child. A party may apply for issuance of an order for appearance of parties and child, or a warrant to take physical custody of a child, pursuant to I.C. §§ 32-11-210 and 32-11-311.

C. Response. Response is defined in Rule 103.B.8. The response may include a counterclaim and/or one or more cross-claims.

D. Reply to counterclaim. If the response includes a counterclaim, a reply to the counterclaim shall be filed.

E. Response to cross-claim. If the response contains a cross-claim, the respondent on the cross-claim shall file a response to it.

F. Other pleadings. Other pleadings may include a third-party petition and response and such other pre-judgment/pre-decree or post-judgment/post-decree pleadings as otherwise provided for in these rules.

Rule 204. Service on the Opposing Party or Additional Parties of Initial Pleadings

A. Summons and petition. At the request of the petitioner, the clerk of the district court shall issue a summons for service. The petitioner shall personally serve upon all parties entitled to service (except when the service is by publication as provided in Rule 204.D) a copy of (1)the petition and the summons; and (2) any notices, forms and orders issued by the court at the time of filing of the petition.

B. Time limit for service. If a service of the summons and Petition is not made upon a Respondent within six (6) months after the filing of the Petition and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that Respondent without prejudice upon the court's own initiative with 14 days notice to such party or upon motion.

C. Summons – form. The summons shall be signed by the clerk of the district court, be under the seal of the court, contain the name of the court, the assigned number of the case, the names of the parties, the county in which the action is brought, and state the name and address of the Petitioner's attorney, if any, otherwise, the Petitioner's address. The summons shall contain the time within which these rules require the Respondent to file a written response or written motion in defense to the Petition, and shall notify the Respondent that, in case of the Respondent's failure to do so, judgment by default will be rendered against the Respondent for the relief demanded in the Petition. The summons shall be in substantially the following form:

NAME OF PARTY OR ATTORNEY
ATTORNEYS BAR NUMBER
STREET OR PO BOX ADDRESS
CITY, STATE & ZIP CODE
TELEPHONE NUMBER
(Attorney for) Petitioner

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

	)	
Petitioner,	)	Case No. _____
	)	
vs.	)	SUMMONS
	)	
Respondent.	)	
	)	

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PETITIONER(S): THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO: _____

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above designated court within 20 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you as demanded by the Petitioner(s) in the Petition. A copy of the Petition is served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 205 of the Idaho Rules of Family Law Procedure of the Fourth Judicial District Court and shall also include:

1. The title and number of this case.

2. If your response is a Response to the Petition, it must contain admissions or denials of the separate allegations of the Petition and other defenses you may claim.

3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.

4. Proof of mailing or delivery of a copy of your response to Petitioner's attorney, as designated above.

To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this _____ day of _____, 20 ____.

CLERK OF THE DISTRICT COURT

By _____

Deputy Clerk

1. Personal service. A copy of the petition shall be served with the summons, except when the service is by publication as provided in Rule 204.G. The petitioner shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

2. Service upon individuals. Upon an individual other than infants and incompetents, by delivering a copy of the summons and of the petition to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person over the age of eighteen (18) years then residing therein or by delivering a copy of the summons and of the petition to an agent authorized by appointment or by law to receive service of process.

3. Service upon incompetents. Upon a minor less than fourteen (14) years of age, service shall be upon the guardian if one (1) has been appointed, and if there is none then upon either the father or mother, and if neither guardian, father or mother be found within the state then upon any person having the care and custody of such minor, and unless the court otherwise orders, also upon the minor, said service to be in the manner set forth in subdivision (2) of this rule. Upon an incompetent person who has been judicially declared to be of unsound mind or incapable of conducting the incompetent person's own affairs, service shall be had upon the guardian if one (1) has been appointed in this state, or if there is none by service upon a competent adult member of the family with whom the incompetent person resides, or if the incompetent person is living in an institution then upon the chief executive officer of the institution, or if service cannot be had upon any of them, then as provided by order of the court, and unless the court otherwise orders, also upon the incompetent. If any of the parties upon whom service is directed to be made is a plaintiff, then service shall be upon such other person as the court may designate.

4. Service upon state, agencies or governmental subdivisions. Upon the state of Idaho, or any agency thereof, service shall be made by delivering two (2) copies of the summons and complaint to the attorney general or any assistant attorney general. Upon any other governmental subdivision, municipal corporation, or quasi-municipal corporation or public board service shall be made by delivering a copy of the summons and complaint to the chief executive officer or the secretary or clerk thereof. In all actions brought under specific statutes requiring service to be made upon specific individuals or officials, service shall be made pursuant to the statute in addition to service as provided above.

D. Service by publication. Where service is to be made by publication, the Summons to be published shall be substantially as follows:

SUMMONS

To: [Respondent's Name]

You have been sued by [Petitioner's Name], the Petitioner, in the District Court in and for [Name of County] County, Idaho, Case No. [Case No.].

The nature of the claim against you is [nature of claim].

Any time after 20 days following the last publication of this summons, the court may enter a judgment against you without further notice, unless prior to that time you have filed a written

response in the proper form, including the Case No., and paid any required filing fee to the Clerk of the Court at [address and telephone number of the clerk] and served a copy of your response on the Petitioner's attorney at [name, address, and phone number of Petitioner's attorney].

A copy of the Summons and Petition can be obtained by contacting either the Clerk of the Court or the attorney for Petitioner. If you wish legal assistance, you should immediately retain an attorney to advise you in this matter.

Dated: _____

[Name of County] County District Court

By _____, Deputy Clerk

E. Process - by whom served. Service of all process shall be made by an officer authorized by law to serve process, or by some person over the age of eighteen (18), not a party to the action. A subpoena may be served as provided in Rule 711.

F. Receipt of service. In lieu of service upon an individual as provided above in this rule, service may be accomplished by an acknowledged written admission by the individual that the individual has received service of process, stating the capacity in which such service of process was received.

G. Summons - other service. Whenever a statute of this state provides for service of a summons, or of a notice, or of an order in lieu of summons, upon a party not an inhabitant of, or found within the state, or upon unknown persons, service shall be made under the circumstances and in the manner prescribed by the statute. Personal service outside of the state, when authorized by statute, shall be as provided by Rule 204.C. Whenever the summons, notice or order is served by publication it shall contain in general terms a statement of the nature of the grounds of the claim, and copies of the summons and complaint shall be mailed to the last known address most likely to give notice to the party.

H. Service - completion. Personal service within or without the state is complete on the date of delivery; service by publication is complete upon the date of the last publication.

I. Territorial limits of effective service. All process, other than a subpoena, may be served anywhere within territorial limits of the state and, when a statute or rule so provides, beyond the territorial limits of the state. A subpoena may be served as provided in Rule 711.

J. Return. Proof of service of process shall be in writing specifying the manner of service, the date and place of service and unless the party served files an appearance the return must be filed with the court:

1. If service is made by a sheriff or deputy sheriff, or any peace officer or court marshall, anywhere within the state of Idaho, then by certificate of the officer indicating service as required by these rules.

2. If service is by any person other than those specified in (1) above, then by affidavit of such person indicating the person is over the age of 18 years and service as required by these rules.

3. If service is by mailing, not requiring proof of receipt, then by affidavit of mailing by a person over the age of 18 years who mailed such service indicating the documents mailed and the date and address to which they were mailed.

4. If service is by certified or registered mail, then by affidavit of a person over the age of 18 years who mailed such process together with postal receipts indicating whether the person received the service of process by mail.

5. If service is by publication, then by affidavit of the publisher of the newspaper, or the publisher's designated agent over the age of 18 years, stating the dates of publication and attaching a true copy of the publication.

6. In lieu of any of the above, the party's acknowledged written admission that service of process was received, as provided by Rule 204.F.

The return of service shall list and identify all documents served.

K. Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial right [rights] of the party against whom the process issued.

Rule 205. Mandatory Responsive Filings and Service of Responsive Filings

A. Responses. The opposing party in an action for annulment, divorce, legal separation, child custody or paternity who has been served with a petition and summons shall respond by filing a response to the petition. In the event the opposing party in one of these proceedings does not file a response, the party who filed the action will have the right to file for a default and receive a default judgment under Rules 301 - 305.

B. Service of responsive filings. Every order required by its terms to be served, every pleading subsequent to the original petition unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, brief and memorandum of law, and similar paper shall be served upon each of the parties affected thereby, but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 204.

C. Service - how made. Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to such person or by mailing it to the last known address of such person or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means: transmitting the copy by a facsimile machine process, delivering the copy via e-mail if written permission to send via e-mail has been obtained from the intended recipient; handing it to the attorney or to the party; or leaving it at the attorney's office with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the dwelling house of the person or usual place of abode with some person over the age of eighteen

years then residing therein. Service by mail is complete upon mailing. This rule shall not require a facsimile machine to be maintained in the office of an attorney.

D. Filing. All papers after the petition required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter filed. If the papers have been filed before service, the filing date shall be noted thereon.

E. Filing with the court.

1. Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk, except that the judge may accept the papers for filing, in which event the judge shall note thereon the filing date, hour and minute and forthwith transmit them to the office of the clerk. The judge or clerk shall indorse upon every pleading and other paper the hour and minute of its filing.

2. Filing by facsimile. Any pleading or document except those documents requiring a filing fee or filed as proof of incarceration of a party to the action may be transmitted to the court for filing by a facsimile machine process. The clerk shall file stamp the facsimile copy as an original and the signature, court seal, and notary seal on the copy shall constitute the required signature and be considered as originals under Rule 211. After a document is filed by facsimile, there is no need to mail that document to the court. Filings may be made to the court only during the normal working hours of the clerk and only if there is a facsimile machine in the office of the filing clerk of the court. Provided, documents over ten (10) pages in length cannot be filed by the facsimile machine process.

3. Other use of facsimile copies. Any facsimile machine process copy that is not transmitted directly to the court may be filed with the court. The clerk shall file stamp the facsimile copy as an original and the signature on the copy shall constitute the required signature under Rule 211. There shall be no limit as to the number of pages of a facsimile copy which was not transmitted directly to the court by the facsimile machine process.

4. Additional filings by county. Each county, on an individual basis, may elect to waive any or all of the restrictions of subsection 2 above to the extent that (a) documents requiring a filing fee may be transmitted to the court for filing by a facsimile machine process provided that the fee is prepaid by credit card in accordance with the county's credit card acceptance policy; (b) filings may be made at any time, provided that filings received outside normal working hours or on any non-judicial day will be file stamped at 9:00 a.m. on the next judicial day; (c) documents of any length may be faxed.

F. Proof of service. Proof of service shall be made by a certificate of the attorney or the party making service. The certificate of service shall be attached to the copy of the document filed with the court, or if the document is not filed with the court, the certificate shall be filed within a reasonable time after service of the document. The certificate of service shall state the date and manner of service and the name and address of the person served. Failure to make proof of service does not affect the validity of the service.

G. Service on attorney-legislator suspended during sessions; emergency provisions. During such time as any attorney shall be serving as a legislator or legislative attaché while the legislature is in general or special session, the attorney shall not be required to attend in court at any trial or other proceeding, and in any pending matter in which the attorney appears as attorney of record, the time within which the attorney would normally be required to file any pleading or other paper shall be extended for a period of ten days following adjournment of

such session of the legislature, provided, that such extension of time is not intended to, and shall not, toll or otherwise extend the running of any limitation period provided by statute and provided further, that upon motion by an aggrieved party or attorney, supported by appropriate affidavit, that an emergency exists or said party would be unduly prejudiced or irreparable damage would accrue, the court in which said action is pending may order, ex parte, such attorney to make appropriate arrangements to appear or for another member of the Idaho state bar to represent said attorney's clients in such pending matter, which said order shall be served upon the attorney by special delivery mail addressed to the attorney at the legislature.

Rule 206. General or Special Appearance

A. General appearance. The voluntary appearance of a party or service of any pleading by the party, except as provided in subsection B hereof, constitutes voluntary submission to the personal jurisdiction of the court.

B. Motion or special appearance to contest personal jurisdiction. A motion under Rule 502.A.2, 4 or 5 whether raised before or after judgment, a motion under Rule 107 or 108, or a motion for an extension of time to respond or otherwise appear does not constitute a voluntary appearance by the party under this rule. The joinder of other defenses in a motion under Rule 502.A.2, 4 or 5 does not constitute a voluntary appearance by the party under this rule. After a party files a motion under Rule 502.A.2, 4 or 5, action taken by that party in responding to discovery or to a motion filed by another party does not constitute a voluntary appearance. If, after a motion under Rule 502.A.2, 4, or 5 is denied, the party pleads further and defends the action, such further appearance and defense of the action will not constitute a voluntary appearance under this rule. The filing of a document entitled “special appearance,” which does not seek any relief but merely provides notice that the party is entering a special appearance to contest personal jurisdiction, does not constitute a voluntary appearance by the party under this rule if the party files a motion under Rule 502.A.2, 4, or 5 within fourteen (14) days after filing such document, or within such later time as the court permits.

Rule 207. Form of Pleading

Every pleading shall satisfy any statutory requirements and contain a caption setting forth the name of the court, the names of the parties, the title of the action, the file number, and the type of pleading. A party's designation as petitioner or respondent shall continue in all future proceedings, including proceedings to modify or enforce a judgment or decree and proceedings for contempt. When the name of the respondent is unknown to the petitioner, the respondent may be designated in the pleadings or proceeding by any name. When the respondent's true name is discovered, the pleading or proceeding may be amended accordingly.

A. Caption – name of parties. Every pleading, motion, notice, or judgment or order of the court shall be typed with black ribbon or produced by a computer or word processor type printer of letter quality on white paper and contain a caption setting forth the names of the parties, the title of the district court, together with the assigned number of the action, the designation of the document or pleading and the names, addresses and phone numbers of the attorneys appearing of record for the party filing the document or pleading and the typewritten name of the person signing the pleading. All pleadings, motions, notices, judgments, or other documents filed with the court shall be typed on 8 1/2 X 11 inch paper. The body of all such documents may be typed with double line spacing or one-and-one-half (1 1/2) line spacing with pica standard typing of not more than 10 letters to the inch. Every pleading shall have the name

or designation thereof typed at the bottom of each page, and all attached exhibits must be legible and subject to reproduction by copying processes or be accompanied by a typewritten duplicate, and all handwritten exhibits shall be accompanied by a typewritten duplicate. In the petition the title of the action shall include the names of all of the parties, but in subsequent pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of the other parties. The title of the court shall commence four (4) inches from the top of the first page. The name, address and telephone number of the attorney, or person appearing in propria persona, shall be typewritten or printed above the title of the court in the space to the left of the center of the page and beginning at least two (2) inches below the top edge thereof. The currently valid Idaho State Bar Number of the attorney shall be typewritten or printed immediately below the attorney's telephone number. Pleadings or motions requiring filing fees shall also contain designations of the category of the action, the nature of the document and filing fee category and filing fee prescribed by Appendix "A" to the Idaho Rules of Civil Procedure. Prisoners incarcerated or detained in a state prison or county jail may file documents under this rule that are legibly hand-printed in black ink, in whole or in part, that otherwise conform to the requirement of this rule. This rule does not apply to printed forms approved by the Supreme Court or the Administrative District Judge or distributed through the Court Assistance Office in the county where the lawsuit is pending. Such forms may be completed by legibly hand-printing in black ink or by typing.

B. Lost Papers. If an original pleading or paper be lost, the court may authorize a copy thereof to be filed and used instead of the original.

C. Language, abbreviation and numbers. Pleadings shall be in the English language. Such abbreviations as are in common use may be used, and numbers may be expressed by words or numerals in the customary manner.

D. Unknown party. When a party does not know the true name of the adverse party, that fact may be stated in the pleadings and the adverse party designated by any name and the words, "whose true name is unknown," and when the true name is discovered the pleading must be amended accordingly.

E. Paragraphs – separate statements. All statements of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

F. Adoption by reference; exhibits. Statements in pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes. All exhibits to pleadings must be legible, distinct and subject to clear copying by reproduction processes; and all exhibits not meeting this requirement, as well as all hand written exhibits, must be accompanied by a typewritten duplicate thereof at the time of filing.

Rule 208. General Rules of Pleading

A. Claims for relief. A pleading which sets forth a claim for relief shall contain: (1) a short and plain statement of the grounds upon which the court's jurisdiction depends; (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for

judgment or decree for the relief the pleader seeks. Relief in the alternative or of several different types may be demanded.

B. Defenses - form of denials. A party shall state in short and plain terms the defenses to each claim asserted and shall admit or deny the statements upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of a statement, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the statements denied. When a pleader intends in good faith to deny only a part or a qualification of a statement, the pleader shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the statements of the preceding pleading, the pleader may make denials as specific denials of designated statements or paragraphs, or may generally deny all the statements except such designated statements or paragraphs as the pleader expressly admits; but, when the pleader does so intend to controvert all its statements, including statements of the grounds upon which the court's jurisdiction depends, the pleader may do so by general denial subject to the obligations set forth in Rule 212.

C. Affirmative defenses. In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory or comparative negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

D. Effect of failure to deny. Statements in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading, except those necessary to sustain an action for divorce. Statements in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

E. Manner of pleading.

1. Pleading to be concise and direct - consistency. Each statement of a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

2. Two or more statements of claim or defense permissible. A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in Rule 212.

F. Construction of pleadings. All pleadings shall be so construed as to do substantial justice.

Rule 209. Counterclaims and Cross-claims

A. Compulsory counterclaims. A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the

transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon the claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this Rule.

B. Permissive counterclaims. A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject-matter of the opposing party's claim.

C. Counterclaim exceeding opposing claim. A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

D. Counterclaim against the state. These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims or to claim credits against the State of Idaho or any of its governmental subdivisions, agencies or officers.

E. Counterclaim maturing or acquired after pleading. A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

F. Omitted counterclaims. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may, by leave of court, set up the counterclaim by amendment.

G. Cross-claim against co-party. A pleading may state as a cross-claim any claim by one party against a co-party arising out of the transaction or occurrence that is the subject-matter either of the original action or of a counterclaim therein or relating to any property that is the subject-matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

H. Joinder of additional parties. Persons other than those made parties to the original action may be made parties to a counterclaim or cross-claim in accordance with the provisions of Rules 210.

Rule 210. Third party practice

A. When respondent may bring in third party. At any time after commencement of the action a respondent as a third-party petitioner may cause to be served a summons and petition upon a person not a party to the action who is or may be liable to such third-party petitioner for all or part of the petitioner's claim against the third-party petitioner. The third-party petitioner need not obtain leave to make the service if the third-party petitioner files the third-party petition not later than 10 days after serving the original response. Otherwise the third-party petitioner must obtain leave on motion upon notice to all parties to the action. The person so served, hereinafter called the third-party respondent, shall make any defenses to the third-party petitioner's claim as provided in Rule 205 and any counterclaims against the third-party petitioner and cross-claims against other third-party respondents as provided in Rule 209. The third-party respondent may assert against the petitioner any defenses which the third-party

petitioner has to the petitioner's claim. The third-party respondent may also assert any claim against the petitioner arising out of the transaction or occurrence that is the subject matter of the petitioner's claim against the third-party petitioner. The petitioner may assert any claim against the third-party respondent arising out of the transaction or occurrence that is the subject matter of the petitioner's claim against the third-party petitioner, and the third-party respondent thereupon shall assert any defenses as provided in Rule 205 and any counterclaims and cross-claims as provided in Rule 209. Any party may move for severance, separate trial, or dismissal of the third-party claim; and the court may direct a final judgment upon either the original claim or the third-party claim alone in accordance with the provisions of Rule 804. A third-party respondent may proceed under this rule against any person not a party to the action who is or may be liable to the third party respondent for all or part of the claim made in the action against the third-party respondent.

B. When petitioner may bring in third party. When a counterclaim is asserted against a petitioner, he may cause a third party to be brought in under circumstances which under this rule would entitle a respondent to do so.

Rule 211. Intervention

A. Intervention of right. Upon timely application anyone shall be permitted to intervene in an action (1) when a statute of the state of Idaho confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede applicant 's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

B. Permissive intervention. Upon timely application anyone may be permitted to intervene in an action (1) when a statute confers a conditional right to intervene or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

C. Procedure. A person desiring to intervene shall serve a motion to intervene upon all parties affected thereby. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

D. Intervention by Department of Health and Welfare. A motion to intervene brought by the State of Idaho Department of Health and Welfare for the purpose of obtaining, enforcing or modifying a child support order may be granted without hearing, subject to a later hearing upon a motion by an objecting party. Service of the motion and any order allowing intervention may be made by mail to the last known address of each of the parties.

E. Intervention by de facto custodian.

1. A request for de facto custodian status pursuant to Idaho Code Section 32-1704(1)(b) shall be brought by way of a Motion for Permissive Intervention if there is an existing Idaho order of child custody or a pending Idaho proceeding to establish custody with regard to the

child or children that are the subject of the request. A child custody proceeding shall not include actions filed pursuant to title 16 of the Idaho Code. The Motion for Permissive Intervention shall be served pursuant to Rule 203 in any pending child custody proceeding. The Motion for Permissive Intervention shall be served pursuant to Rule 204 if the custody proceeding is closed. A Notice of Hearing shall be served along with the motion in accordance with Rule 501.C.

2. If the Motion for Permissive Intervention is granted, a Petition for De facto Custodian Status and Custody may be filed. The petition shall be served and adjudicated in substantially the same manner as an original proceeding. The petition and notice of hearing shall be served upon the parties pursuant to Rule 204 unless otherwise ordered by the court. The Notice of Hearing shall direct the opposing party to file a written response within 20 days.

Rule 212. Signing of Pleadings, Motions, and Other Papers; Sanctions

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one (1) licensed attorney of record of the state of Idaho, in the attorney's individual name, whose address shall be stated before the same may be filed. A party who is not represented by an attorney shall sign the pleading, motion or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate that the attorney or party has read the pleading, motion or other paper; that to the best of the signer's knowledge, information, and belief after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Rule 213. Verification

Verification of pleadings authorized or permitted under these rules or by law shall be a written statement or declaration by a party or the party's attorney of record sworn to or affirmed before an officer authorized to take depositions by Rule 429, that the affiant believes the facts stated to be true, unless a verification upon personal knowledge is required.

Rule 214. Amended and Supplemental Pleadings - Amendments

A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within twenty (20) days after it is served. Otherwise a party may amend a pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires, and the court may make such order for the payment of costs as it deems proper. A party shall plead in response to an amended pleading within the time

remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

Rule 215. Amendments to Conform to the Evidence

When issues not raised by the pleading are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice the party in maintaining the party's action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

Rule 216. Relation Back of Amendments

Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against the party, the party to be brought in by amendment (1) has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party. The relation back of an amendment joining or substituting a real party in interest shall be as provided in Rule 202. The delivery or mailing of process to the Idaho attorney general or designee of the attorney general, or an agency or officer who would have been a proper respondent if named, satisfies the requirement of clauses (1) and (2) hereof with respect to the state of Idaho or any agency or officer thereof to be brought into the action as a respondent.

Rule 217. Supplemental Pleadings

Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented, whether or not the original pleading is defective in its statement of a claim for relief. If the court deems it advisable that the adverse party plead thereto, it shall so order, specifying the time therefor.

Rule 218. Privacy Protection for Filings Made with the Court

A. Redacted filings.

Unless the court orders otherwise, the parties shall refrain from including or shall partially redact, where inclusion is necessary, the following personal data identifiers from all documents filed with the court, including exhibits. This rule does not apply to exhibits offered at a trial or hearing unless they are filed with the court.

1. Social Security numbers. If an individual's social security number must be included in a pleading, only the last three digits of that number shall be used.

2. Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child shall be used.

3. Dates of birth. If an individual's date of birth must be included in a pleading, only the year shall be used.

4. Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers shall be used.

5. Home addresses. Only the city and state shall be identified; however, this rule does not apply to information required to be in the caption of a pleading pursuant to Rule 207 or in a certificate of service.

B. Exceptions.

1. The redaction requirement does not apply to the record of a court, tribunal, administrative or agency proceeding if that record was filed before the effective date of this rule.

2. The redaction requirement does not apply to documents that are exempt from disclosure pursuant to Idaho Court Administrative Rule 32.

3. The redaction requirement does not apply to documents that are required by statute or rule to include personal data identifiers.

C. Options when personal data identifiers are necessary.

A party filing a redacted document need not also file an unredacted version of the document; however, where inclusion of the unredacted personal data identifiers is necessary, a party may:

1. File the redacted document together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list shall be clearly identified as a reference list filed pursuant to this rule and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information. The reference list shall be secured in the file and be exempt from disclosure pursuant to Idaho Court Administrative Rule 32; however, courts will share the reference list with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.

2. File the redacted document together with an unredacted copy of the document. The unredacted copy shall be clearly identified as an unredacted copy filed pursuant to this rule and placed in a manila envelope marked "sealed" with a general description of the records, and the redacted copy placed in the court file. The unredacted copy shall be exempt from disclosure pursuant to Idaho Court Administrative Rule 32; however, courts will share the unredacted copy with other government agencies as required or allowed by law without court order or application for purposes of the business of those agencies.

D. Orders of the court.

1. If possible, the court shall refrain from including in court orders the personal data identifiers set forth in subsections A.1 through A.5 of this rule. If personal data identifiers are

included in the order, the order shall be placed in a manila envelope marked “sealed” and be exempt from disclosure pursuant to Idaho Court Administrative Rule 32. Copies of the order shall be served on the parties and shall be available to the parties and other government agencies without court order for purposes of the business of those agencies. Upon request a redacted copy shall be prepared.

2. Exceptions. The court may include personal data identifiers in orders that are exempt from disclosure pursuant to Idaho Court Administrative Rule 32, or that are required by statute to include personal data identifiers.

E. Responsibility for compliance.

The parties and counsel are solely responsible for redacting personal data identifiers. The clerk will not review each document for compliance with the rule. Failure to comply with this rule is grounds for contempt.

III. DEFAULTS

Rule 301. Default - Entry

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the court, shall order entry of default against the party. Default shall not be entered against a party who has appeared in the action unless that party (or, if appearing by representative, the party’s representative) has been served with three (3) days written notice of the application for entry of such default.

Rule 302. Default proof - Time limitation

Default proof shall not be presented to the court nor a default entered against a party prior to the expiration of the period of time allowed by these rules for an appearance or defense unless, (1) the party required to make the appearance or defense executes a waiver under oath stating that the party waives the permitted time for appearance or defense, refuses to plead further, and consents to the immediate hearing of a default proceeding without further notice, and (2) the court enters an order shortening the time for appearance or defense by such party for good cause shown by the affidavit or testimony of the moving party. Upon compliance with this rule, default may be entered, a default proceeding held and judgment by default be entered without notice to the defaulting party in the same manner as though the normally prescribed time for an appearance or defense had expired, subject to the limitations of section 32-716, Idaho Code.

Rule 303. Actions at Issue - Not Default

This rule shall not prevent a trial hearing on any action which is at issue in which the parties are represented in person or by their attorneys of record, which hearing shall not be deemed a default hearing whether or not a defending party actively participates or opposes the claim of another.

Rule 304. Default Judgment by the Court or Clerk

When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the court or the clerk thereof, upon request of the plaintiff, and upon the filing of an affidavit of the amount due showing the method of computation, together with any original instrument evidencing the claim unless otherwise permitted by the court, shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person, and has been personally served, other than by publication or personal service outside of this state. Any application for a default judgment must contain written certification of the name of the party against whom judgment is requested and the address most likely to give the defendant notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment. An application for default judgment in a divorce or annulment action must be accompanied by a certificate furnished by the department of vital statistics fully filled out by the party seeking the default divorce or annulment.

Rule 305. Default Judgment by the Court - Persons Exempt From

In all other cases the party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action by a general guardian, or other such representative who has appeared therein. If the party against whom judgment by default is sought has appeared in the action, the party (or, if appearing by representative, the party's representative) shall be served with written notice of the application for judgment at least three (3) days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any statement by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper. In actions for divorce, the statutes of the state of Idaho shall apply. Any application for a default judgment must contain written certification of the name of the party against whom the judgment is requested and the address most likely to give the party notice of such default judgment, and the clerk shall use such address in giving such party notice of judgment.

Rule 306. Setting Aside Default Judgment

For good cause shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 809.

Rule 307. Plaintiffs, Counterclaimants, Cross-claimants Covered by Default Judgment Rule

The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject to the limitations of Rule 805.

Rule 308. Judgment Against the State

No judgment by default shall be entered against the state of Idaho, an officer, agency or political subdivision thereof, unless the claimant establishes the claim or right by evidence satisfactory to the court.

IV. DISCLOSURE AND DISCOVERY

Rule 401. Mandatory Disclosure in Contested Proceedings

The requirements of this rule are minimum disclosure requirements for every family law case. Unless otherwise provided for in this rule or agreed to in writing by the parties or ordered by the court, within thirty-five (35) days after the filing of a responsive pleading, each party shall disclose in writing to every other party the information set forth in this rule.

A. Child Support. In a case in which child support is an issue, each party (with the exception of the Idaho Department of Health and Welfare) shall disclose the following information to the other party:

1. a fully completed Affidavit of Verifying Income on a form substantially in compliance with Rule 126.I and Appendix A and a Child Support Worksheet substantially in compliance with Rule 126.I and Appendix B or C;

2. proof of income of the party from all sources, specifically including W-2 forms, 1099 forms, and K-1 forms, for the prior two (2) completed calendar years, and year-to-date income information for the current calendar year, including, but not limited to, year-to-date pay stub, salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance;

3. proof of the amount of court-ordered child support and spousal maintenance actually paid by the party in any case other than the one in which disclosure is being provided;

4. proof of the cost of all medical, dental, and vision insurance premiums paid by the party for any child listed or referenced in the petition;

5. proof of the cost of any child care expenses paid by the party for any child listed or referenced in the petition;

6. proof of any expenses paid by the party for private or special schools or other particular education needs of a child listed or referenced in the petition; and

7. proof of any expenses paid by the party for the special needs of a gifted or handicapped child listed or referenced in the petition.

B. When Health and Welfare is a party. When the Idaho Department of Health and Welfare (IDHW) is a party to a case in which child support and/or other financial matters regarding the child(ren) are at issue, IDHW shall disclose all financial information at its disposal after redacting social security numbers to the other parties who have made an appearance in the case.

C. Spousal maintenance and attorneys' fees and costs. If either party has requested an award of spousal maintenance or an award of attorneys' fees and costs, each party shall disclose the following information to the other

1. a fully completed affidavit containing the information required by Rule 504.A.2 and

2. those documents set forth in subdivision A.2 above.

D. Property. Unless the parties have entered into a written agreement disposing of all property issues in the case or no property is at issue in the case, each party shall prepare a list of

all items having a fair market value more than $100 of real and personal property, including, but not limited to, household furniture, furnishings, antiques, artwork, vehicles, jewelry and similar items in which any party has an interest, together with the party's estimate of current fair market value (not replacement value) for each item. In addition, each party shall provide to the other party the following documents:

1. copies of all deeds, deeds of trust, purchase agreements, escrow documents, settlement sheets, and all other documents that disclose the ownership, legal description, purchase price and encumbrances of all real property owned by any party;

2. copies of all monthly or periodic bank, checking, savings, brokerage and security account statements in which any party has or had an interest for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure;

3. copies of all monthly or periodic statements and documents showing the value of all pension, retirement, stock option, and annuity balances, including Individual Retirement Accounts, 401(k) accounts, and all other retirement and employee benefits and accounts in which any party has or had an interest for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure, or if no monthly or quarterly statements are available during this time period, the most recent statements or documents that disclose the information;

4. copies of all monthly or periodic statements and documents showing the cash surrender value, face value, and premiums charged for all life insurance policies in which any party has an interest for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure, or if no monthly or quarterly statements are available for this time period, the most recent statements or documents that disclose the information;

5. copies of all documents that may assist in identifying or valuing any item of real or personal property in which any party has or had an interest for the period commencing six (6) months prior to the filing of the petition, including any documents that the party may rely upon in placing a value on any item of real or personal property;

6. copies of all business tax returns, balance sheets, profit and loss statements, and all documents that may assist in identifying or valuing any business or business interest for the last two (2) completed calendar or fiscal years and through the latest available date prior to disclosure with respect to any business or entity in which any party has an interest or had an interest for the period commencing twenty-four (24) months prior to the filing of the petition; and

7. copies of any bankruptcy filings of the parties, or either of them.

If a party does not possess a copy of any of the above documents, they shall provide the name, address and telephone number of the custodian of the documents.

E. Debts. Unless the parties have entered into a written agreement disposing of all debt issues in the case or no debts are at issue in the case, each party shall prepare a list of a list of all debts identifying the creditors and the amounts owed. In addition, each party shall provide to the other party the following documents:

1. copies of all monthly or periodic statements and documents showing the balances owing on all mortgages, notes, liens, and encumbrances outstanding against all real property and personal property in which the party has or had an interest for the period commencing six

(6) months prior to the filing of the petition and through the date of the disclosure, or if no monthly or quarterly statements are available during this time period, the most recent statements or documents that disclose the information; and

2. copies of credit card statements and debt statements for all months for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure.

F. Disclosure of witnesses. Forty-two (42) days before trial each party shall disclose the names, addresses, and telephone numbers of any witness whom the disclosing party expects to call at trial, along with a statement fairly describing the substance of each witness's expected testimony. A party shall not be allowed to call witnesses who have not been disclosed at least forty-two (42) days before trial, or such different period as may be ordered by the court.

G. Disclosure of expert witnesses. Forty-two (42) days before trial each party shall disclose the name, address and telephone number of any person whom the disclosing party expects to call as an expert witness at trial, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, a summary of the grounds for each opinion, the qualifications of the witness, and the name and address of the custodian of copies of any reports prepared by the expert. A party shall not be allowed to call an expert witness who has not been disclosed at least forty-two (42) days before trial or such different period as may be ordered by the court.

H. Continuing Duty to Disclose. The duty described in this rule shall be a continuing duty, and each party shall make additional or amended disclosures before a motion hearing or trial in the event new or different information is discovered or revealed.

Rule 402. Additional Discovery

A. Methods. Nothing in the minimum requirements of Rule 401 shall preclude relevant additional discovery by a party in a family law case, in which case further discovery may proceed as set forth in these rules. If a party believes more detailed disclosure is necessary other than that set forth in Rule 401, that party may obtain discovery by one or more of the following methods: written interrogatories; production of documents or things or permission to enter upon land or other property for inspection and other purposes; depositions upon oral examination; requests for admission; and physical, mental and vocational examinations.

B. Discovery scope and limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows.

1. In General. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

2. Limitation by the court. The frequency or extent of use of the discovery methods set forth in part A if this Rule may be limited by the court if it determines that:

   a. the discovery sought is unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive;

b. the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or
c. the discovery is unduly burdensome or expensive, given the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under Rule 409.

Rule 403. Trial Preparation - Materials

Subject to the provisions of Rule 404, a party may obtain discovery of documents and tangible things otherwise discoverable under Rule 402.B and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation, including communications between the attorney and client, whether written or oral. A party may obtain without the required showing a statement previously made by that party concerning the action or its subject matter. Upon request, a person not a party may obtain without the required showing a statement previously made by that person concerning the action or its subject matter. If the request is refused, the person may move for a court order. The provisions of Rule 443.D apply to the award of expenses incurred in relation to the motion. For purposes of this paragraph, a statement previously made is (1) a written statement signed or otherwise adopted or approved by the person making it, or (2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

Rule 404. Trial Preparation - Experts

A. Experts expected to testify. Discovery of facts known and opinions held by experts expected to testify, otherwise discoverable under the provisions of subdivision Rule 402.B and acquired or developed in anticipation of litigation or for trial, may be obtained by interrogatory and/or deposition, including:

1. a complete statement of all opinions to be expressed and the basis and reasons therefore;

2. the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions;

3. any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years;

4. the compensation to be paid for the testimony;

5. and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

B. Further discovery on motion and order. Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and such provisions, pursuant to subdivision Rule 406, concerning fees and expenses as the court may deem appropriate.

C. No contact without permission. No party shall contact an expert witness of an opposing party without first obtaining the permission of the opposing party or the court.

Rule 405. Experts Not Expected as Witnesses

A party may not discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, except as provided in Rule 442.B or except upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

Rule 406. Fees of Expert - Apportionment

Unless manifest injustice would result, (1) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under Rule 404.B and Rule 405; and, in the event discovery is obtained by deposition under Rule 404.A, the party seeking discovery shall pay the expert a reasonable fee for time spent testifying at said deposition; and (2) with respect to discovery obtained under Rule 404.B the court may require, and with respect to discovery obtained under Rule 405 the court shall require, the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

Rule 407. Privileged Information Withheld

When a party withholds information otherwise discoverable under these rules by claiming it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

Rule 408. Privileged Information Produced

When a party produces information without intending to waive a claim of privilege it may, within a reasonable time, notify any party that received the information of its claim of privilege. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies. The producing party must comply with Rule 407 with regard to the information and preserve it pending a ruling by the court.

Rule 409. Protective Orders

A. Protective orders allowed. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matter relating to a deposition, the court in the district where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

1. that the discovery not be had;

2. that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

3. that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

4. that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

5. that discovery be conducted with no one present except persons designated by the court;

6. that a deposition after being sealed be opened only by order of the court;

7. that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;

8. that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

B. Denial and expenses. If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of Rule 443.D apply to the award of expenses incurred in relation to the motion.

Rule 410. Sequence and Timing of Discovery

Unless the court upon motion, for the convenience of parties and witnesses and in the interest of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

Rule 411. Signing of Discovery Requests, Responses, and Objections

A. Requests and responses to be signed. Every request for discovery or response or objection thereto made by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the request, response, or objection and state the party's address.

B. Signature constitutes certification. The signature of the attorney or party constitutes a certification that the signer has read the request, response, or objection, and that to the best of the signer's knowledge, information, and belief formed after a reasonable inquiry it is:

1. consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

2. not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

3. not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

C. Unsigned requests or responses to be stricken. If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the

attention of the party making the request, response or objection and a party shall not be obligated to take any action with respect to it until it is signed.

D. Sanctions. If a certification is made in violation of the rule, the court, upon motion or upon its own initiative, shall impose upon the person who made the certification, the party on whose behalf the request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including reasonable attorney's fees.

Rule 412. (Intentionally Left Blank)

Rule 413. Uniform and Non-Uniform Interrogatories; Limitations; Procedure

A. Uniform Interrogatories. The Uniform Family Law Interrogatories set forth in Form 2, are approved for use as a standard or guide recommended in preparation of interrogatories under these Rules. The use of Uniform Interrogatories shall be governed by Rule 414 and this Rule. The use of Uniform Interrogatories is not mandatory. They are not to be used as a standard set of interrogatories for submission in all cases. Each interrogatory should be used only where it fits the particular case.

B. Presumptive limitations. Except as provided in these rules, a party shall not serve upon any other party more than forty (40) interrogatories, which may be any combination of uniform or non-uniform interrogatories. Any uniform interrogatory and its subparts shall be counted as one interrogatory. Any subpart to a non-uniform interrogatory shall be considered as a separate interrogatory.

C. Stipulations to serve additional interrogatories. If a party believes that good cause exists for the service of more than forty (40) interrogatories upon any other party, that party shall consult with the party upon whom the additional interrogatories would be served and attempt to secure a written stipulation as to the number of additional interrogatories that may be served.

D. Leave of court to serve additional interrogatories. If a stipulation permitting the service of additional interrogatories is not secured, a party desiring to serve additional interrogatories may do so only by leave of court. Upon written motion or application showing good cause therefore, the court in its discretion may grant to a party leave to serve a reasonable number of additional interrogatories upon any other party. The party seeking leave to serve additional interrogatories shall have the burden of establishing that the issues presented in the action warrant the service of additional interrogatories, or that such additional interrogatories are a more practical or less burdensome method of obtaining the information sought, or other good cause therefor. No such motion or application may be heard or considered by the court unless accompanied by the proposed additional interrogatories to be served.

E. Spacing. A space sufficient for the answer shall be left within or immediately below each interrogatory or subpart thereof. The responding party shall insert the answer in the space provided, or if more space is needed, on a separate sheet, restating the question before giving the answer.

F. Propounding and responding to interrogatories. The method of propounding and responding to interrogatories shall be as follows:

1. The propounding party shall serve a copy of the interrogatories upon each other party to the action, identifying which party or parties the interrogatories are directed to.

2. The responding party shall:
   a. fully answer each interrogatory, unless it is objected to, in which event the reasons for the objection may be stated in place of an answer,
   b. sign the response under oath, and
   c. within 30 days of service of the interrogatories, serve the original answers and objections upon the propounding party and a copy upon all other parties.

The party submitting the interrogatories may move for an order under Rule 443 with respect to any objection to or other failure to respond to any interrogatory.

G. Interrogatories not filed with court. The interrogatories and the responses shall not be filed with the court.

H. Notice of serving. The party serving either interrogatories or responses thereto shall file with the court a notice of when the interrogatories or responses were served and by whom.

I. Retention of originals. The propounding party shall retain both the original interrogatories and the original of the sworn answers until one year after final disposition of the action. At that time, both originals may be destroyed, unless the court on motion of any party and for good cause shown orders that the originals be preserved for a longer period.

J. Duty to supplement responses. The duty to respond described in subpart F.2. of this rule shall be a continuing duty, and each party shall make additional or amended responses before a motion hearing or trial in the event new or different information is discovered or revealed.

Rule 414. Scope - Use of Interrogatories at Trial or on Motions

A. In general. Interrogatories may relate to any matters which can be inquired into under Rules 402 - 408, and the answers may be used to the extent permitted by the Idaho Rules of Evidence. An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pre-trial conference or other later time.

B. Submission to the court. If interrogatories and responses thereto are to be used at trial or are to be used either in support of, or in opposition to, a pretrial or post-trial motion, only those portions to be used shall be submitted to the court at the outset of the trial or at the filing of the motion or response thereto insofar as their use can be reasonably anticipated by the party seeking to introduce such evidence. For purposes of this rule, and unless a genuine issue of authenticity is raised a moving party need not produce portions of the original interrogatories and responses thereto, but may rely on the submission of copies of the relevant original interrogatories and responses.

C. Return after final disposition. Interrogatories and responses thereto which have been submitted to the court pursuant to this Rule shall be returned to appropriate counsel after final disposition of the case.

Rule 415. Option to Produce Records

Where the answer to an interrogatory may be derived or ascertained from the business or other records, including electronically stored information, of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business or other records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

Rule 416. Production of Documents and Things; Entry On Land

Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on the party's behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things including electronic and data storage devices in any medium which constitute or contain matters within the scope of Rules 402 - 408 and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rules 402 – 408. The procedure for such discovery shall be as follows:

A. Request. The request may, without leave of court, be served upon the petitioner after commencement of the action and upon any other party with or after service of the summons and petition upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. To obtain discovery of data or information that exists in electronic or data storage devices in any medium, the requesting party must specifically request production of such data and specify the form or manner of delivery in which the requesting party wants it produced.

B. Response. The party upon whom the request is served shall serve a written response within 30 days after the service of the request. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event any reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. As to electronic or data storage devices in any medium, the responding party must produce the data that is responsive to the request and is reasonably available to the responding party in its ordinary course of business. If the responding party cannot through reasonable efforts retrieve the data or information requested or produce it in the form requested, the responding party must state an objection complying with these rules. The party submitting the request may move for an order under Rule 443 with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested. If the court orders the responding party to comply with the request, the court may also order that the requesting party pay the

reasonable expenses of any extraordinary steps required to retrieve and produce the information.

C. Retention of request and response. The request, the response thereto, and all or any documents produced pursuant to this Rule shall not be filed with the court. The party demanding an inspection or production shall retain both the original of the inspection or production demand, with the original proof of service affixed to it, and the original response, until one year after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

Rule 417. (Intentionally Left Blank)

Rule 418. Persons not Parties

These rules do not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

Rule 419. Notice of Filing and Notice of Compliance

The party serving requests for production of documents shall file with the court a notice stating when and on whom such request was served. The party responding to a request for production of documents may file with the court a notice stating when and on whom the response was served, or otherwise indicating that there has been compliance with the request.

Rule 420. Requests for Admission

A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rules 402 - 408 set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the petitioner after commencement of the action and upon any other party with or after service of the summons and petition upon that party.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written response or objection addressed to the matter, signed under oath by the party or by the party's attorney, unless the court shortens the time. If objection is made, the reasons therefor shall be stated. The response shall specifically deny the matter or set forth in detail the reasons why the responding party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the response or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. A responding party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested represents a genuine issue for trial may not, on that ground alone, object to the

request; the party may, subject to the provisions of Rule 445, deny the matter or set forth reasons why the party cannot admit or deny it. The responses shall first set forth each request for admission made, followed by the answer or response of the party.

The party who has requested the admissions may move to determine the sufficiency of the responses or objections. Unless the court determines that an objection is justified, it shall order that a response be served. If the court determines that a response does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended response be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pre-trial conference or at a designated time prior to trial. The provisions of Rule 443.D apply to the award of expenses incurred in relation to the motion.

The genuineness, accuracy or truth of any document attached to a pleading shall not be deemed as admitted by the other party by reason of failure to make a verified denial thereof by a responsive pleading or affidavit.

Rule 421. Effect of Admission

Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. The court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining an action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by the party for any other purpose nor may it be used against him in any other proceeding.

Rule 422. Non-filing of Requests for Admission and Responses

A. Requests and responses not to be filed. The requests for admission and the response shall not be filed with the court. The party requesting admission shall retain both the original of the requests for admission, with the original proof of service affixed, and the original of the sworn response until one (1) year after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

B. Notice of service to be filed. The party serving either a request for admission or a response thereto, shall file with the court a notice of when the request or response was served and upon whom.

Rule 423. Use of Admissions in Court

If admissions are to be used at trial or are to be used either in support of or in opposition to a pretrial or post-trial motion, only those portions to be used shall be submitted to the court at the outset of the trial or at the filing of the motion or response thereto, insofar as their use can be reasonably anticipated by the party seeking to introduce such admissions. For purposes of this Rule, unless a genuine issue of authenticity is raised, a moving party need not produce portions of the original admission, but may rely on the submission of relevant excerpts from copies of the original request for admission and response thereto. Requests for admission and responses thereto, which have been submitted to the court pursuant to this rule shall be returned to appropriate counsel after final disposition of the case.

Rule 424. Subpoena for Taking Depositions - Place of Examination

Proof of service of a notice to take a deposition as provided in Rules 430 - 439, or the presentation of a stipulation for the taking thereof, constitutes a sufficient authorization for the issuance pursuant to Rule 711.A, or by the clerk of the district court for the county in which a deposition is being taken to be used in an action pending in another state or country, of subpoenas for the person named or described therein. The subpoena commanding the appearance of a witness at a deposition may also command the person to whom it is directed to produce or to permit inspection and copying of designated books, papers, documents, electronically stored information, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 402 - 408, but in that event the subpoena will be subject to the provisions of Rule 430 - 438 and Rule 711.B, except that if the action is pending out of the state, the court issuing the subpoena shall have the authority to enforce such rules.

Rule 425. Depositions - Attendance Where Required

A resident of the state may be required to attend an examination only in the county wherein the resident resides or is employed or transacts business in person. A nonresident of the state may be required to attend in any county of the state wherein the nonresident is served with a subpoena.

Rule 426. Depositions Before Action

A. Petition. A person who desires to perpetuate testimony or that of another person regarding any matter subject to these Rules may file a verified petition in the district court in the county of the residence of any expected adverse party. The petition shall be entitled in the name of the petitioner and shall show:

1. that the petitioner expects to be a party to an action subject to these Rules but is presently unable to bring it or cause it to be brought,

2. the subject matter of the expected action and the petitioner's interest therein

3. the facts which the petitioner desires to establish by the proposed testimony and the reasons for desiring to perpetuate it

4. the names or a description of persons the petitioner expects will be adverse parties and their addresses so far as known, and

5. the names and addresses of the persons to be examined and the substance of the testimony which the petitioner expects to elicit from each.

The petition shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

B. Notice and service. The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing the notice shall be served either within or without the county or state in the manner provided in Rule 204.C - F for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication

or otherwise, and shall appoint, for persons not served in the manner provided in Rule 204.C - F, an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a minor or incompetent the provisions of Rule 114 apply.

C. Order and examination. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with these rules. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

D. Use of deposition. If a deposition to perpetuate testimony is taken under these rules or if, although not so taken, it would be admissible in evidence in the courts of the state in which it is taken, it may be used in any action involving the same subject matter subsequently brought in district court, in accordance with the provisions of Rule 439.

Rule 427. Depositions Pending Appeal

If an appeal has been taken from a judgment or decree or before the taking of an appeal if the time therefor has not expired, the district court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the trial court. In such case the party who desires to perpetuate the testimony may make a motion in the trial court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the trial court. The motion shall show (1) the names and addresses of persons to be examined and the substance of the testimony which the party expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the trial court.

Rule 428. Perpetuation by Action

These rules do not limit the power of a court to entertain an action to perpetuate testimony.

Rule 429. Persons Before Whom Depositions May Be Taken

A. Within the United States. Within the state of Idaho, depositions shall be taken before a person authorized by the laws of this state to administer oaths; without the state, but within the United States, or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before a person authorized to administer oaths by the laws of this state, by the United States, or of the place where the examination is held; within or without the state of Idaho, depositions may also be taken before a person appointed by the court in which the action is pending, which persons so appointed shall have the power to administer oaths and take testimony.

B. Taking in foreign countries. In a foreign state or country depositions shall be taken (1) before a secretary of embassy or legation, consul, vice consul, or consular agent of the United

States, or any officer authorized to administer oaths under the laws of this state, or of the United States or (2) before a person appointed by the court. The officer or person is empowered to administer oaths and take testimony. A commission shall be issued only when necessary or convenient, on application and notice, and on such terms and with such directions as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title.

C. Members of the armed forces. The deposition of a person in any of the armed forces of the United States or of the state of Idaho or of their spouses and children or any other person subject to military or naval law or their spouses and dependents, may be taken before any officer of any component of any branch of such armed forces of the United States or the state of Idaho. Recital in the certificate of such officer that the officer holds the office stated in the certificate and that affiant is a member of such armed forces or subject to military or naval law or is a spouse or child of such member, shall be prima facie evidence of such facts.

D. Disqualification for interest. No deposition shall be taken before a person who is a relative, employee or attorney or counsel of any party, or is a relative or employee of such attorney or counsel, or is financially interested in the action; provided that such disqualification shall not apply to an attorney acting as a notary public for the acknowledgment of a document, or the verification of an affidavit or pleading in an action.

Rule 430. Depositions Upon Oral Examination

A. When depositions may be taken. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the petitioner seeks to take a deposition prior to the expiration of 30 days after service of summons and petition upon any respondent or service made under Rule 204.G and H, except that leave is not required (1) if a respondent has served a notice of taking deposition or otherwise sought discovery, or (2) if special notice is given as provided in subdivision C of this rule. The attendance of witnesses may be compelled by subpoena as provided in Rule 711.A - L. The deposition of a person confined in prison may be taken only by leave of a court on such terms as the court prescribes.

B. Notice of examination. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

C. General requirements. Leave of court is not required for the taking of a deposition by petitioner if the notice (1) states that the person to be examined is about to go out of the district where the action is pending and more than 100 miles from the place of trial, or is about to go out from the United States, or is bound on a voyage to sea, and will be unavailable for examination unless the person's deposition is taken before expiration of the 30-day period, and (2) sets forth facts to support the statement. The petitioner's attorney shall sign the notice, and the attorney's signature constitutes a certification that to the best of the attorney's knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by Rule 211 are applicable to the certification.

D. Special notice. The court may for cause shown enlarge or shorten the time for taking the deposition.

E. Audio-visual deposition.

1. Recording. Any deposition may be recorded by audio-visual means but simultaneously shall be recorded as a stenographic record. Any party may make at the party's own expense a simultaneous stenographic or audio record of the deposition. Upon a party's request and at the party's own expense, any party is entitled to an audio or audio-visual copy of the audio-visual recording.

2. Official Record. The audio-visual recording is an official record of the deposition. A transcript prepared by a reporter is also an official record of the deposition.

3. Transcript. On motion the court, for good cause, may order the party taking, or who took, a deposition by audio-visual recording to furnish, at the party's expense, a transcript of the deposition.

4. Use. An audio-visual deposition may be used for any purpose and under any circumstances in which a stenographic deposition may be used.

5. Notice. The notice for taking an audio-visual deposition and the subpoena for attendance at that deposition must state that the deposition will be recorded by audio-visual means.

6. Procedure. The following procedure must be observed in recording an audio-visual deposition:

   a. Opening of Deposition. The deposition must begin with an oral or written statement on camera which includes:
      i. the operator's name and business address;
      ii. the name and business address of the operator's employer;
      iii. the date, time, and place of the deposition;
      iv. the caption of the case;
      v. the name of the witness;
      vi. the party on whose behalf the deposition is being taken; and
      vii. any stipulations by the parties.
   b. Counsel. Counsel shall identify themselves on camera.
   c. Oath. The oath must be administered to the witness on camera.
   d. Multiple Units. If the length of a deposition requires the use of more than one recording unit, the end of each unit and the beginning of each succeeding unit must be announced on camera.
   e. Closing of Deposition. At the conclusion of a deposition, a statement must be made on camera that the deposition is concluded. A statement may be made on camera setting forth any stipulations made by counsel concerning the custody of the audio-visual recording and exhibits or other pertinent matters.
   f. Index. Depositions must be indexed by a time generator or other method specified by rule.
   g. Objections. An objection must be made as in the case of stenographic depositions.
   h. Editing. If the court issues an editing order, the original audio-visual recording must not be altered.

i. Filing. Unless otherwise ordered by court, the original audio-visual recording of a deposition, any copy edited pursuant to an order of the court, and exhibits shall be held and preserved by the attorney who noticed the deposition, in the same manner as a transcript of a deposition as provided by Rule 432.

7. Costs. The reasonable expense of recording, editing, and using an audio-visual deposition may be taxed as costs.

F. Production of documents and things. The notice to a party deponent may be accompanied by a request made in compliance with Rule 416 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 416 shall apply to the request.

G. Deposition of organization. A party may in the party's notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This rule does not preclude taking a deposition by any other procedure authorized in these rules.

H. Depositions by conference telephone calls. The parties may stipulate in writing or the court may upon motion order that a deposition may be taken by telephone. For purposes of this rule and rules 424, 429.A, 443, and 444, a deposition taken by telephone is taken in the state, territory or insular possession and at the place where the deponent is to answer questions propounded to the deponent.

I. Examination and cross-examination - record of examination - oath - objections. Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of Rule 612 and the Idaho Rules of Evidence. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subdivision E of this rule. If requested by one (1) of the parties, the testimony shall be transcribed at the party's own expense.

All objections made at time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition who shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

J. Conduct during depositions; motions to terminate or limit examination.

1. Any objection to evidence during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner. Conduct of counsel or other persons during the deposition shall not impede, delay or frustrate the fair examination of the deponent. If the court finds an impediment, delay or other conduct has frustrated the fair examination of the

deponent, it may impose upon the persons responsible appropriate sanctions, including the reasonable costs and attorney's fees incurred by parties as a result thereof, and those listed in Rule 444.

2. Any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such a manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or in the district court or magistrates division where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 409. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of Rule 443.D apply to the award of expenses incurred in relations to the motion.

Rule 431. Submission to Witness - Changes - Signing

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 441.D the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

Rule 432. Certification by Officer and Non-filing - Exhibits

A. Duties of officer. The officer shall certify on the transcript of the deposition that the witness was duly sworn by the officer and that the transcript is a true record of the testimony given by the witness. The officer shall then securely seal the transcript in an envelope or package indorsed with the title of the action and marked "Deposition of (here insert the name of witness)" and shall then promptly transmit it to the attorney for the party who noticed the deposition and for whom the deposition was taken. This attorney shall store the transcript under conditions that will protect it against loss, destruction, or tampering.

B. Non-filing of transcript. The transcript of a deposition shall not be filed with the court. The attorney to whom the transcript of a deposition is transmitted shall retain custody of it until one (1) year after final disposition of the action. At that time, the transcript may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the transcript or record be preserved for a longer period.

C. Documents to be annexed. Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (1) the person producing the materials may substitute copies to be marked for

identification, if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, and (2) if the person producing the materials request their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

D. Copies to be furnished. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

Rule 433. (Intentionally Left Blank)

Rule 434. Notice of Preparation of Transcript; Filing Notice of Mailing

Upon completion of the transcript of the deposition and the mailing thereof to the attorney at whose request the deposition was taken, the officer who prepared the transcript shall promptly notify all parties or their attorneys that the transcript has been completed and has been mailed or otherwise delivered to said attorney. The officer who prepared the transcript shall also file with the court notice stating when the original transcript was completed and mailed, the name and address of the attorney receiving the original transcript, and the name(s) and address(es) of all person(s) receiving copies thereof.

Rule 435. Use of Deposition

A. Original available for inspection. The attorney having custody of the original transcript shall make it available for inspection by the parties, unless otherwise ordered by the court.

B. Only portions to be used submitted to court. If a deposition, or portions thereof, are to be used at trial, or are to be used either in support of, or in opposition to, a pretrial or post-trial motion, only those portions to be used shall be submitted to the court at the outset of the trial or at the filing of the motion or response thereto, insofar as their use can be reasonably anticipated by the party seeking to introduce such evidence. For purposes of this Rule, and unless a genuine issue of authenticity is raised, a moving party need not produce the original transcript, but may rely on the submission of relevant excerpts from copies of the original transcript.

C. Return after final disposition. Depositions, or portions thereof, which have been submitted to the court pursuant to this Rule shall be returned to appropriate counsel after final disposition of the case.

Rule 436. Exhibits to Depositions

Documentary evidence before the officer or exhibits proved or identified by the witness, may be annexed to and returned with the deposition; or the officer shall, if requested by the party producing the documentary evidence or exhibits, mark it as an exhibit in the case, and return it to the party offering the same, and the same shall be received in evidence as if annexed to and returned with the deposition.

Rule 437. Failure to Attend

If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by a party and that party's attorney in attending, including reasonable attorney's fees.

Rule 438. Expenses

If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because the party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's fees.

Rule 439. Use of Depositions

At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

A. Use to contradict, impeach or for other purpose. Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness, or for any other purpose permitted by the Idaho Rules of Evidence.

B. Use by an adverse party for any purpose. The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 430.G to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

C. Use in particular circumstances. The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds:

1. that the witness is dead; or

2. that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the state of Idaho, unless it appears that the absence of the witness was procured by the party offering the deposition; or

3. that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

4. that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

5. upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

D. Introducing additional parts when part is offered. If only part of a deposition is offered in evidence by a party, an adverse party may require the party to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

E. Use of depositions taken in dismissed actions. When an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken in the former action may be used in the latter as if originally taken therefor. A deposition previously taken also may be used as permitted by the Idaho Rules of Evidence.

Rule 440. Objections to Admissibility

Subject to the provisions of Rule 441, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

Rule 441. Effect of Errors and Irregularities in Depositions

A. As to notice. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

B. As to disqualification of officer. Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

C. As to taking of deposition.

1. Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

2. Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

D. As to completion and return of deposition. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under these rules are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

Rule 442. Physical, Mental and Vocational Evaluations of Persons

A. Order for evaluation. When the mental, physical, or vocational condition of a party or any other person is in controversy, the parties by stipulation, or the court may order that person to submit to a physical, mental, or vocational evaluation by a designated expert or to produce for evaluation the person in the party's custody or legal control. The order may be made only on

motion for good cause shown and upon notice to the person to be evaluated (unless the person to be evaluated is a minor child of one or both of the parties), and to all parties and shall specify the time, place, manner, conditions, and scope of the evaluation and the person or persons by whom it is to be made. The person to be evaluated shall have the right to have a representative present during the evaluation, unless the presence of that representative may adversely affect the outcome of that evaluation. A copy of any record made of a physical, mental, or vocational evaluation shall be provided to each party or their counsel upon request.

B. Report of evaluator. Upon completion of the evaluation, a copy of the detailed written report of the evaluator setting out the evaluator's findings, including the results of all tests made, diagnoses and conclusions, together with like reports of all earlier evaluations of the same condition shall be provided to each party or their counsel. If any expert fails or refuses to make a report the court may exclude the expert's testimony.

Rule 443. Sanctions for Violation of Orders - Motion for Order Compelling Discovery

A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery as follows:

A. Appropriate court. An application for an order to a party may be made to the court in which the action is pending, or, on matters relating to a deposition, taken in connection with litigation pending outside the state, to the district court in the judicial district where the deposition is being taken. An application for an order to a deponent who is not a party shall be made to the court in the district where the deposition is being taken.

B. Motion. The discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request, or compelling an evaluation under Rule 442 if:

1. a deponent fails to answer a question propounded under Rule 430,

2. a corporation or other entity fails to make a designation under Rule 430.G;

3. a party fails to answer an interrogatory submitted under Rule 413;

4. a party, in response to a request for inspection submitted under Rule 416, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested; or

5. a person or a person in the custody of or under the legal control of a party fails to attend an examination under Rule 442.

The motion must include a certification that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order. If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to Rule 409.

C. Evasive or incomplete answer. For purposes of this subdivision an evasive or incomplete answer is to be treated as a failure to answer.

D. Award of expenses of motion. If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the court shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

Rule 444. Failure to Comply With Discovery Order - Sanctions

A. Sanctions by court in district where deposition is taken. If a deponent fails to be sworn or affirmed or to answer a question after being directed to do so by the court in the district in which the deposition is being taken, the failure may be considered a contempt of that court.

B. Sanctions by court in which action is pending. If a party or an officer, director, or managing agent of a party or a person designated under Rule 430.G to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under Rule 443 or Rule 441, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

1. An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

2. An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;

3. An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

4. In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical, mental, or vocational examination;

5. Where a party has failed to comply with an order under Rule 442.A requiring the party to produce another for examination, such orders as are listed in paragraphs 1, 2, and 3 of this subdivision, unless the party failing to comply shows that the party is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising the party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

Rule 445. Expenses on Failure to Admit

If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 420, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that (1) the request was held objectionable pursuant to Rule 420, or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or (4) there was other good reason for the failure to admit.

Rule 446. Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Inspection

If a party or an officer, director, or managing agent of a party or a person designated under Rule 430.G to testify on behalf of a party fails (1) to appear before the officer who is to take deposition, after being served with a proper notice, or (2) to serve answers or objections to interrogatories submitted under Rule 413, after proper service of the Interrogatories, or (3) to serve a written response to a request for inspection submitted under Rule 416, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under paragraphs B 1, 2 and 3 of Rule 444. In lieu of any order or in addition thereto, the court shall require the party failing to act or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

The failure to act described in this rule may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Rule 409.

Rule 447. General Sanctions - Failure to Comply With Any Order

In addition to the sanctions under rules 443 through 446, for violation of discovery procedures, any court may in its discretion impose sanctions or conditions, or assess attorney's fees, costs or expenses against a party or the party's attorney for failure to obey an order of the court made pursuant to these rules.

Rule 448. Expenses Against State of Idaho

Expenses and attorney's fees may be awarded against the state of Idaho under this rule.

V. MOTIONS AND INJUNCTIONS.

Rule 501. Motion Practice

A. Motions and other papers. An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor including the number of the Rule of Family Law Procedure or Idaho Rule of Civil Procedure, if any, under which it is filed, and shall set forth the relief or order

sought. A proposed form of order, if included, shall be a separate document. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

B. Captions, signing and form of motions. The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

C. Time limits for filing and serving motions, affidavits and briefs. Unless otherwise ordered by the court, which order may for cause shown be made on ex parte application, or specified elsewhere in these rules:

1. A written motion, other than one which may be heard ex parte, and notice of the hearing thereon shall be filed with the court, and served so that it is received by the parties no later than fourteen (14) days before the time specified for the hearing.

2. When a motion is supported by affidavit(s), the affidavit(s) shall be served with the motion, and any opposing affidavit(s) shall be filed with the court and served so that it is received by the parties no later than seven (7) days before the hearing.

3. It shall not be necessary to file a brief or memorandum of law in support of a motion, but the moving party must indicate upon the face of the motion whether the party desires to present oral argument or file a brief within fourteen (14) days with the court in support of the motion.

4. If the moving party does not request oral argument upon the motion, and does not file a brief within fourteen (14) days, the court may deny such motion without notice if the court deems the motion has no merit. If argument has been requested on any motion, the court may, in its discretion, deny oral argument by counsel by written or oral notice to all counsel before the day of the hearing, and the court may limit oral argument at any time.

5. Any brief submitted in support of a motion shall be filed with the court and served so that it is received by the parties at least fourteen (14) days prior to the hearing. Any responsive brief shall be filed with the court and served so that it is received by the parties at least seven (7) days prior to the hearing. Any reply brief shall be filed with the court, and served so that it is received by the parties, at least two (2) days prior to the hearing.

6. If the office of the presiding judge or magistrate in any action is outside of the county in which an action is pending, the party serving any motion, affidavit, or brief shall simultaneously send a copy to the presiding judge or magistrate, which shall be in addition to the filing of the originals with the court of record.

D. Hearings by telephone conference or video teleconference. The court may hold a telephone conference or video hearing on, (1) any motion, other than motions for summary judgment unless the parties stipulate or (2) any pretrial matter.

Rule 502. Defenses and Objections; When and How Presented; By Pleading or Motion; Motion for Judgment on Pleadings – When Presented

A respondent shall serve a response within twenty (20) days after the service of the summons upon the party, or within such longer period as is provided by statute. A party served with a pleading stating a cross-claim against him shall serve a response thereto within twenty (20) days after the service of the cross-claim upon the party. The petitioner shall serve a reply to a

counterclaim in the response within twenty (20) days after service of the response or, if a reply is ordered by the court, within twenty (20) days after service of the order, unless the order otherwise directs. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within ten (10) days after notice of the court's action; (2) if the court grants a motion for a more definite statement the responsive pleading shall be served within ten (10) days after the service of the more definite statement. In either case the time for service of the responsive pleading shall not be less than remains of the time which would have been allowed under these rules if the motion had not been made.

A. How defenses and objections presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses shall be made by motion:

1. lack of jurisdiction over the subject matter,
2. lack of jurisdiction over the person,
3. improper venue,
4. insufficiency of process,
5. insufficiency of service of process,
6. failure to state a claim upon which relief can be granted,
7. failure to join an indispensable party,
8. another action pending between the same parties for the same cause.

If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 505, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 505.

B. Motion for judgment on the pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed as provided in Rule 505, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 505.

C. Motion for more definite statement. If a pleading to which a responsive pleading is permitted violates the provisions of Rule 207 or is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a compliance with the Rules or for a more definite statement before interposing the responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within ten (10) days after notice of the order or

within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

D. Motion to strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within twenty (20) days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

E. Waiver or preservation of certain defenses.

1. A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived unless it is made by motion prior to filing a responsive pleading and prior to filing any other motion, other than a motion for an extension of time to respond or otherwise appear or a motion under Rule 107 or 108. It is not waived, however, by being joined with one or more other motions or by filing a special appearance as provided in Rule 206.

2. A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under Rule 502, a defense of another action pending between the same parties for the same cause, and an objection of failure to state a legal defense to a claim may be raised by motion made at or before the trial on the merits.

3. An objection to improper venue is waived unless a timely motion for proper venue is made as provided in Rule 105.

4. Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

Rule 503. Successive Applications for Orders or Writs - Motions for Reconsideration

A. Successive Applications. In any action, if an application by any party to the judge of a court for the issuance of an order or writ is denied in whole or in part by such judge, neither the party nor the party's attorney shall make any subsequent application to any other judge except by appeal to a higher court; provided that a second application may be made for a constitutional writ after a disclosure of the first application has been made to the second judge. Any writ or order obtained in violation of this section shall be immediately vacated by the judge issuing the same upon discovery of the prior application to another judge, and the party and the attorney shall be subject to such costs and sanctions as the court may determine in its discretion. Nothing in this rule shall prevent a party or the attorney from renewing a motion or an application to the same judge, or a newly appointed judge, in an action after such motion or application was originally denied; but this provision and this rule shall not create the right to file a motion for reconsideration except as provided in subsection B of this rule. Nothing in this rule shall prevent a party or an attorney from renewing a motion or an application for a constitutional writ to the same judge, or a newly appointed judge, in an action after such motion or application was originally denied.

B. Motion for Reconsideration. A motion for reconsideration of any interlocutory orders of the trial court may be made at any time before the entry of final judgment but not later than fourteen (14) days after the entry of the final judgment. A motion for reconsideration of any order of the trial court made after entry of final judgment may be filed within fourteen (14) days

from the entry of such order; provided, there shall be no motion for reconsideration of an order of the trial court entered on any motion filed under Rules 306, 802, 807, 808 and 809.

Rule 504. Motions for Temporary Orders – Mandatory Disclosure

A. Form of motion. A party seeking temporary orders pursuant to Idaho Code Sections 32-704 and 32-717 shall file a separate verified motion, or a motion and affidavit, with the court setting forth the legal and jurisdictional bases for the motion and the specific relief requested. The motion shall include the following information and documents where relevant:

1. Custody and parenting time. If a party seeks an order for temporary custody, parenting time or visitation, the motion shall set forth a proposed parenting plan specifically stating the custody, parenting time and visitation requested for all parties to the action. If not contained in a separate affidavit or pleading previously filed in the case, the motion shall set forth all facts that are required to be disclosed by Idaho Code Section 32-11-209. The motion shall further set forth the following additional information:

   a. the name and date of birth of each child who is subject to the motion;
   b. the nature and extent of any special needs of each child;
   c. a description of the manner in which the parents are currently caring for the child/ren. If the parties live separately, then include a description of the manner in which they have cared for the child/ren, both before and after separation;
   d. each parent's current work schedule;
   e. the nature and extent of any circumstances known to the moving party that would subject the child/ren to a risk of neglect or abuse in either parent's custody including, but not limited to, substance abuse or dependence, and domestic violence.

2. Child support, spousal maintenance and attorney's fees. If a party seeks a temporary child support order, the motion shall be accompanied by a completed Affidavit Verifying Income and Child Support Worksheet setting forth the amount requested in accordance with the Idaho Child Support Guidelines set forth in Rule 126.I. All motions for temporary orders of child support, spousal maintenance, attorney's fees, and the division of community income shall set forth the specific amount requested and shall provide the following information to the best of the moving party's knowledge:

   a. the name of each party's employer;
   b. the amount of each party's monthly income, both gross and net supported by an accurate photocopy of the moving party's most recent pay stub;
   c. an itemization of the amount of each party's reasonable monthly living expenses; and
   d. if reasonable monthly expenses exceed the parties' combined net income, the identity of each and every community asset, including a statement of its fair market value, which is available to sell or borrow against in order to meet the reasonable needs of the parties and their child/ren.

B. Response to motion. A party who wishes to file a response to a verified motion for temporary orders shall file an affidavit containing the same information that is required of the motion.

C. Motions for temporary orders. Motions for temporary orders shall be heard and decided exclusively on the motion and affidavits unless, at the hearing on the motion for temporary

orders, the court determines that the parties should be allowed to present evidence. In such case, the court shall schedule an evidentiary hearing within a reasonable time. Service of the motion, affidavits, and legal memoranda, if any, shall be governed by Rule 501.C.1 – 6.

Rule 505. Summary Judgment

A. For claimant. A party seeking to recover upon a claim, counterclaim, or cross- claim or to obtain a declaratory judgment may, at any time after the expiration of twenty (20) days from the service of process upon the adverse party or that party's appearance in the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in that party's favor upon all or any part thereof. Provided, a motion for summary judgment must be filed at least 60 days before the trial date, or filed within 7 days from the date of the order setting the case for trial, whichever is later, unless otherwise ordered by the court.

B. For defending party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in that party's favor as to all or any part thereof. Provided, a motion for summary judgment must be filed at least 60 days before the trial date, or filed within 7 days from the date of the order setting the case for trial, whichever is later, unless otherwise ordered by the court.

C. Motion for summary judgment and proceedings thereon. The motion, affidavits and supporting brief shall be served at least 28 days before the time fixed for the hearing. If the adverse party desires to serve opposing affidavits the party must do so at least 14 days prior to the date of the hearing. The adverse party shall also serve a responding brief at least 14 days prior to the date of the hearing. The moving party may thereafter serve a reply brief not less than 7 days before the date of the hearing. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. Such judgment, when appropriate, may be rendered for or against any party to the action. The court may alter or shorten the time periods and requirements of this rule for good cause shown, may continue the hearing, and may impose costs, attorney fees and sanctions against a party or the party's attorney, or both.

D. Case not fully adjudicated on motion for summary judgment. If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

E. Form of affidavits - further testimony - defense required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible

in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of that party's pleadings, but the party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party.

F. When affidavits are unavailable in summary judgment proceedings. Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

G. Affidavits in summary judgment proceedings made in bad faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused that party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

Rule 506. Declaratory Judgments

The procedure for obtaining a declaratory judgment pursuant to the statutes of this state, shall be in accordance with these rules. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

Rule 507. Injunctions - Preliminary Injunction

A. Notice. No preliminary injunction shall be issued without notice to the adverse party.

B. Consolidation of hearing with trial on merits. Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial.

Rule 508. Temporary Restraining Order - Notice - Hearing - Duration

A temporary restraining order may be granted without written or oral notice to the adverse party or the party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified petition that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or the party's attorney can be heard in opposition, and (2) the applicant's attorney certified to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the party's claim that notice should not be required. Every temporary restraining order granted without notice shall be indorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record;

shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if that party does not do so, the court shall dissolve the temporary restraining order. On 2 days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

Rule 509. Form and Scope of Injunction or Restraining Order

Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the petition or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

Rule 510. Grounds for Preliminary Injunction

A preliminary injunction may be granted in the following cases:

A. When it appears by the petition that the petitioner is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the acts complained of, either for a limited period or perpetually.

B. When it appears by the petition or affidavit that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury to the petitioner.

C. When it appears during the litigation that the respondent is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the petitioner's rights, respecting the subject of the action, and tending to render the judgment ineffectual.

D. When it appears, by affidavit, that the respondent during the pendency of the action, threatens, or is about to remove, or to dispose of the respondent's property with intent to defraud the petitioner, an injunction order may be granted to restrain the removal or disposition.

E. A preliminary injunction may also be granted on the motion of the respondent upon filing a counterclaim, praying for affirmative relief upon any of the grounds mentioned above in this section, subject to the same rules and provisions provided for the issuance of injunctions on behalf of the petitioner.

F. The district courts, in addition to the powers already possessed, shall have power to issue writs of injunction for affirmative relief having the force and effect of a writ of restitution, restoring any person or persons to the possession of any real property from the actual

possession of which the person or persons may be ousted by force, or violence, or fraud, or stealth, or any combination thereof, or from which the person or persons are kept out of possession by threats whenever such possession was taken from them by entry of the adverse party on Sunday or a legal holiday, or in the nighttime, or while the party in possession was temporarily absent therefrom. The granting of such writ shall extend only to the right of possession under the facts of the case, in respect to the manner in which the possession was obtained, leaving the parties to their legal rights on all other questions the same as though no such writ had issued: provided, that no such writ shall issue except upon notice in writing to the adverse party of at least seven (7) days of the time and place of making application therefor.

Rule 511. Bond or Notice Discretionary in Prohibitive or Mandatory Orders

In suits for divorce, annulment, alimony, separate maintenance or custody of children, the court may make prohibitive or mandatory orders, with or without notice or bond as may be just, including bond for payment of costs, damages and reasonable attorney's fees, as may be just. If a party applies for an order without notice to the adverse party, the party or the party's attorney must certify to the court in writing the efforts if any, which have been made to give the notice and the reasons supporting the party's claim that notice should not be required. Any party may elect to produce testimony and evidence at any hearing, or to cross-examine the adverse party or the party's affiants, by first giving at least twenty-four (24) hours notice to the court and opposing counsel before the hearing, which requirement shall be stated in the body of the notice. If such notice is timely given it shall not be necessary to subpoena the adverse party or the party's affiants and the adverse party shall appear with the party's designated affiants without further notice unless otherwise ordered by the court. If the adverse party and the adverse party's affiants designated in the notice are not excused by the court and do not appear as requested, the court may impose such sanctions as it deems appropriate including attorney's fees for the requesting party.

Rule 512. Security Given With Injunction or Restraining Order

No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages including reasonable attorney's fees to be fixed by the court, as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. No such security shall be required of the state or of any political subdivision, or of an officer or agency thereof.

A surety upon a bond or undertaking under this rule submits the surety to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribed may be served on the clerk of the court who shall forthwith mail copies to the persons giving the security if their addresses are known.

Rule 513. Evidence on Motions

When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

VI. ALTERNATIVE DISPUTE RESOLUTION

Rule 601. Alternative Dispute Resolution Screening

A. Authority of the court. In all domestic relations cases involving children, the presiding judge may order the parties to participate in ADR screening for the purpose of assessing whether parents are appropriate or prepared to engage in mediation. The secondary purpose is to provide additional recommendations to parents and the court which may enhance the appropriateness of mediation, or to provide alternatives for resolving issues which will broaden parenting options.

B. Qualifications of ADR screeners. ADR Screeners are appointed by the judge. To be eligible for appointment as an ADR Screener, the applicant must be currently licensed by the state of Idaho as a psychologist, licensed master social worker, or licensed professional counselor practitioner.

C. Standards for ADR screening referral reports.

1. Content. An ADR report is generated from a structured and standard interview that is conducted with each biological parent. The content of the interview with both parents is provided to the court in the form of a written report. No ADR report will be filed if one or both parties fail to appear at the interview. Attached to the report is a NCIC criminal history check on each parent and the needs of the child(ren) based on reports by the parties and observations of the ADR Screener. The recommendations provided to the court and parents are designed to protect child(ren) from the potentially negative impact of parental conflict and the adversarial process. ADR Screening and Referral Reports will not make recommendations for custody and visitation. The ADR report should be used as a case management tool.

2. Factors. Factors considered in determining the appropriateness of mediation or other recommendations for alternatives to resolving issues include, but are not limited to, the following:

   a. Compliance of both parties with the ADR process,
   b. Issues of domestic violence, including party's ability to maintain impulse control and/or anger management.
   c. Use of, or allegations surrounding the use of, drugs and alcohol,
   d. Ability of each parent to articulate his or her own needs and concerns and consider the needs of their child(ren), and
   e. Parties' mental health and emotional stability,

D. Disclosure of report. The ADR screening report is exempt from disclosure pursuant to I.C.A.R. 32(d)(14)(B).

Rule 602. Mediation of Child Custody and Visitation Disputes

A. Definition of "mediation". Mediation under this rule is the process by which a neutral mediator appointed by the court or agreed to by the parties assists the parties in reaching a mutually acceptable agreement as to issues of child custody and visitation. The role of the mediator is to aid the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and finding points of agreement. An agreement reached by the parties is to be based on the decisions of the parties, and not the decisions of the mediator.

B. Matters subject to mediation. All domestic relations actions involving a controversy over custody or visitation of minor children at the pre-trial, trial and post-decree stages in the courts of this state shall be subject to mediation regarding issues of custody, visitation, or both.

C. Selection of a mediator. The court shall permit the parties to select a mediator. If the parties are unable to select a mediator, the court shall appoint one from the list of registered mediators compiled by the Supreme Court and maintained by the Administrative Director of the Courts.

D. Requirement to attend Orientation. The district court of any judicial district may provide by local rule that all parties to any domestic relations case involving children, whether or not a trial or contested case has been scheduled, be required to attend such parent mediation orientation, unless excused by the court.

E. Authority of the court. A court shall order mediation if, in the court's discretion, it finds that mediation is in the best interest of the children and it is not otherwise inappropriate under the facts of the particular case.

F. Qualifications of mediator – application and documentation.

1. List of registered mediators. The Supreme Court will compile a list of registered mediators. Any applicant seeking to be placed on the Supreme Court Roster of registered mediators shall submit to the Administrative Director of the Courts, the following:
    a. An Application for Registration, which includes an affidavit of compliance executed by the applicant attesting that the applicant has fulfilled the requirements to be placed on the Supreme Court list of registered mediators,
    b. Copy of the applicant's degree, license or certificate, and
    c. Proof of completion of the required mediation training as provided in activities required in parts F.2 and F.3 of this rule.

2. Qualification – Professional Credentials. To be placed on the list of registered mediators compiled by the Supreme Court, the applicant must have at least one of the following professional credentials:
    a. The applicant is recognized by Idaho Mediation Association as a Certified Professional Mediator (CPM), or membership in the Association for Conflict Resolution at the advanced practitioner level or other national organizations with equivalent standards for membership.
    b. The applicant is a member of one of the following: the Idaho judiciary; licensed member of the Idaho State Bar Association; licensed psychologist; licensed professional counselor; licensed clinical professional counselor; licensed master social worker; licensed clinical or independent practice social worker; licensed marriage and family therapist; certified school counselor; or certified school psychologist.
    c. The applicant possesses a bachelor’s degree.

3. Training. There are two independent training criteria for all applicants as set forth more fully below. An applicant must complete the substantive training set forth in subsections a and b below. In addition, such training shall be approved and/or provided by an accredited college or university, the Idaho Mediation Association, Association For Conflict Resolution, Association of Family and Conciliation Courts, The Idaho State Bar, or the Idaho Supreme court, Administrative Office of the Courts.

a. Applicants under subsections F.2.a and F.2.c must have complete a minimum of 60 hours mediation training within the past two years, 20 of which must be in the field of child custody mediation. Applicants under subsection F.2.b must have completed a minimum of 40 hours mediation training within the past 2 years, 20 of which must be in the field of child custody mediation. At least 40 of the training hours required under this section shall be acquired through a single training course.
b. At least 20 hours of the mediation training required for applicants under section F.2.b, and at least 40 hours of the training requirements for applicants under section F.2.a and c, shall include the following; topics, at least 30 percent must be in the practice of mediation skills:

i. information gathering (intake; obtaining facts; screening issues),

ii. mediator relationship skills (neutrality; confidentiality; nonjudgmental),

iii. communication skills (active listening; reframing issues: clarifying),

iv. problem solving skills (identify problems, positions, needs, interests; brainstorm alternatives),

v. conflict management skills (theories of conflict management; mediation models; reducing tensions; power imbalances),

vi. ethics (standards of practice; typical problems),

vii. professional skills (substantive knowledge areas; case management; drafting agreements), and

viii. The 20 hours of child custody training required in section F.3 a shall include the following topics:

(a) conflict resolution theory;

(b) psychological issues in separation, divorce, and family dynamics;

(c) domestic violence;

(d) issues and needs of children;

(e) mediation processes and techniques;

(f) family law, including custody and support;

(g) mediation ethics – a minimum of 2 hours.

4. Continuing education of mediators. Beginning the next July 1 after a mediator has been placed on the Supreme Court list of registered mediators, the mediator must take at least thirty (30) hours of child custody training in one or more of the areas as set forth in section 3 c in each and every three (3) years period following the July first date. This training must include a minimum of two hours of mediation ethics training. The mediator must file proof of compliance with this requirement with the Administrative Office of the Courts by July 1 of the year the continuing education is due. Along with proof of compliance, a mediator under section F.2.b must also send proof of current licensing.

5. The administrative district judge in each judicial district may, by administrative order, require mediators to comply with additional criteria beyond those stated in subsections F.2 and F.3 of this rule.

6. Persons approved as child custody mediators prior to the effective date of the amendment to this rule shall not be required to satisfy the training requirements of parts F.2.a, F.2.b, and F.2.c of this rule, but shall be required to fulfill the additional continuing education requirements of part F.4 of this rule.

G. Duties of mediator.

1. The mediator has a duty to define and describe for the parties the process of mediation and its cost during the initial conference before the mediation conference begins. The description should include the following:

a. the difference between mediation and other forms of conflict resolution, including therapy and counseling,
b. the circumstances under which the mediator will meet alone with either of the parties or with any other person,
c. any confidentiality of the mediation proceedings and any privilege against disclosure,
The duties and responsibilities of the mediator and of the parties,
d. The fact that any agreement reached will be reached by mutual consent of the parties,
e. the mediator shall advise the participants to seek independent legal counsel prior to resolving the issues and in conjunction with formalizing an agreement, and
f. the information necessary for defining the disputed issues.

2. The mediator has a duty to be impartial, and to advise all parties of any circumstances bearing on possible bias, prejudice or impartiality.

a. The parties shall have the right to have counsel review any resulting agreement before its submission to the court.
b. Any agreement submitted to the court shall be subject to court review and approval. The court shall reject such agreement only if it is not in the best interests of the child or children involved.

H. Communications between mediator and the Court.

1. The mediator and the court shall maintain no contact or communication except that the mediator may, without comment or observation, report to the court:

a. that the parties are at an impasse,
b. that the parties have reached an agreement. In such case, however, the agreement so reached shall be reduced to writing, signed by the parties and submitted to the court by one or both of the parties, if pro se; otherwise, through their attorneys, for the court's approval,
c. that one or both of the parties have failed to attend the mediation proceeding;
d. that meaningful mediation is ongoing,
e. that the mediator withdraws from mediation; and
f. the allegation or suspicion of domestic violence.

I. Contact between the mediator, attorneys and other interested persons. The mediator and the attorneys for the parties may communicate with one another in the following manner:

1. Any contacts between the attorneys and the mediator shall be either in writing or by conference call.

2. Attorneys and other persons are excluded from mediation conferences unless their presence is requested by the mediator or ordered by the court.

J. Termination of mediation - status report. The court or the mediator may terminate mediation proceedings if further progress toward a reasonable agreement is unlikely. The mediator shall notify the court when the mediation has been concluded. Notice of the status of the mediation process shall be submitted to the court within 28 days from the date of the initial order requiring mediation.

Rule 603. Mediation of Other Matters

A. Definition of mediation. Mediation under Rule 603 is the process by which a neutral mediator appointed by the Court or agreed to by the parties assists the parties in reaching a mutually acceptable agreement. The role of the mediator is to aid the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and finding points of agreement. An agreement reached by the parties is to be based on the decisions of the parties, and not the decisions of the mediator,

B. Matters subject to mediation. All civil cases other than child custody and visitation disputes are eligible for referral to mediation under this subsection. Child custody and visitation disputes shall be mediated pursuant to Rule 602.

C. Authority of the courts. The referral of a civil action to mediation does not divest the court of the authority to exercise management and control of the case during the pending mediation.

D. Referral to mediation. In its discretion a court may order a case to mediation, as follows:

1. Upon motion by a party;

2. At any Rule 701 conference;

3. Upon consideration of request for trial setting, if all parties indicate in their request or response that mediation would be beneficial; or

4. At any other time upon seven (7) days notice to the parties if the court determines mediation is appropriate.

E. Selection of the mediator. The parties shall have fourteen (14) days from entry of the mediation order, or such other time as the court may allow, to select any person to act as mediator and report their selection to the court. If the parties do not select a mediator within fourteen (14) days, then the court shall appoint a mediator from the judicial district's list of mediators maintained pursuant to section M.1 of this Rule.

F. Scheduling of the mediation session(s). Unless the court otherwise orders, the initial mediation session shall take place within forty-two (42) days of the reporting of the selection or the appointment of the mediator.

G. Reports. Within seven (7) days following the last mediation session, the mediator or the parties shall advise the court, with a copy to the parties, whether the case has, in whole or in part, settled.

H. Compensation of mediators. Mediators shall be compensated at their regular fees and expenses, which shall be clearly set forth in the information and materials provided to the parties. Unless other arrangements are made among the parties or ordered by the court, the

interested parties shall be responsible for a prorata share of the mediator's fees and expenses. If a mediator is not paid, the court, upon motion of the mediator may order payment.

I. Impartiality. The mediator has a duty to be impartial, and has a continuing duty to advise all parties of any circumstances bearing on possible bias, prejudice or partiality.

J. Contact between mediator, attorneys and other interested persons. The mediator and the attorneys for the parties may communicate with one another in the following manner:

1. Any contacts between the attorneys and the mediator shall be either in writing or by conference call;

2. Attorneys are excluded from mediation conferences unless their presence is requested by the mediator or ordered by the court. Other interested persons may participate in the mediation upon consent of both parties.

K. Confidentiality. The mediator shall abide by the confidentiality rules agreed to by the parties. Confidentiality protections of I.R.E. 408 and 507 shall extend to mediations under this Rule.

L. Sanctions. The mediator shall be subject to sanctions, including removal from the roster of mediators, if the mediator fails to assume the responsibilities provided herein.

M. Qualifications of mediators. Each trial court administrator shall maintain a list of mediators who meet the qualifications of subsection A, and rosters from dispute resolution organizations that meet the criteria set forth in subsection B below.

1. Mediation Registration -- Qualifications of Court-Appointed Mediators.
   a. The Administrative Director of the Courts shall compile and distribute at least annually a list of mediators. For that purpose, the Administrative Director of the Courts shall gather from all applicants an application demonstrating that the applicant:
      i. is a member of the Idaho State Bar;
      ii. has been admitted to practice law for not less than five (5) years; and
      iii. has attended a minimum of forty (40) hours of mediation training.
   b. In order for a person to remain on the list of mediators maintained by the Administrative Director of the Court, the mediator must submit proof that the mediator has completed a minimum of five (5) hours of additional training or education during the preceding three (3) calendar years on one of the following topics: mediation, conflict management, negotiation, interpersonal communication, conciliation, dispute resolution or facilitation. This training shall be acquired by completing a program approved by an accredited college or university or by one of the following organizations: Idaho State Bar or its equivalent from another state; Idaho Mediation Association or its equivalent from another state; Society of Professionals in Dispute Resolutions; American College of Civil Trial Mediators; Northwest Institute for Dispute Resolution; Institute For Conflict Management; the National Academy of Distinguished Neutrals or any mediation training provided by the federal courts. Any program that does not meet this criteria may be submitted for approval either prior to or after completion. The requirement that continuing education for mediators include at least five (5) hours of training in mediation takes effect for renewals due on or after July 1, 2013.

2. Mediation Registration -- Sponsors of Additional Rosters of Mediators.

a. A public or private dispute resolution organization may make its roster of mediators available to the Administrative Director of the Courts for distribution to the trial court administrators if it documents that it has:

i. an established selection and evaluation process for neutrals,

ii. a mechanism for addressing complaints brought against neutrals, and

iii. a published code of ethics that the neutrals must follow.

A compilation of the organization's selection, evaluation, published code of ethics, and complaint processes that can be distributed to the parties shall be provided.

3. A list and roster(s) of mediators distributed by the Administrative Director of the Courts, pursuant to subsections A and B, above, must contain the following information about each mediator:

a. name, address, telephone and FAX number(s), professional affiliation(s), education,
b. legal and/or mediation training and experience, and
c. fees and expenses.

VII. PRE-TRIAL AND TRIAL PROCEDURE

Rule 701. Scheduling and Planning Conferences – Objectives

A. Court's direction. In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conference before trial for the purposes listed herein.

1. Expediting the disposition of the action.

2. Establishing early and continuing control so that the case will not be protracted because of lack of management.

3. Discouraging wasteful pre-trial activities.

4. Improving the quality of the trial through more thorough preparation.

5. Facilitating the settlement of the case, and

6. Recommending and encouraging that the parties use some form of alternative dispute resolution and, in appropriate cases, ordering the parties to engage in mediation or a court conducted settlement conference.

B. Timing of conference. This conference should ordinarily be conducted following the mandatory disclosure required by Rule 401.

Rule 702. Scheduling and Planning Order

A. Content of order. Except in cases exempted by order of the court as inappropriate, the judge or magistrate shall, after consulting with the attorneys for the parties and any unrepresented parties, by a scheduling conference, telephone, mail or other suitable means, enter a scheduling order that limits the time to do the following:

1. To join other parties and amend the pleadings.

2. To file and hear motions.

3. To complete discovery.

B. Additional provisions of order. The scheduling order may also include the following:

1. The appointment of a special master under Rule 718 to assist the parties in the management of any discovery provided for in these rules.

2. The date or dates for conference to review settlement or ADR options.

3. The date(s) for other conferences, including a final pretrial conference and trial.

4. Any other matters appropriate in the circumstances of the case.

C. Issuance of order. The order shall be issued as soon as practical and, unless it is totally impractical, no more than 180 days after the filing of the petition. A schedule shall not be modified except by leave of the judge or magistrate upon a showing of good cause.

Rule 703. Subjects to be Discussed at Scheduling and Planning Conferences

A. Topics. The participants at any conference under this rule may consider and take action with respect to any of the following:

1. The formulation and simplification of the issues, including the elimination of frivolous claims or defenses.

2. The necessity or desirability of amendments to the pleadings.

3. The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence.

4. The avoidance of unnecessary proof and of cumulative evidence.

5. Identification of witnesses and documents, the need and schedule for filing and exchanging pre-trial briefs, and the date or dates for further conferences and for trial.

6. The advisability of referring matters to a master, appointment of an attorney for children, or the appointment of a parenting evaluator.

7. The possibility of settlement or the use of extrajudicial procedures including alternative dispute techniques to resolve the dispute.

8. The form and substance of the pre-trial order.

9. The disposition of pending motions.

10. The need for adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems.

11. Such other matters as may aid in the disposition of the action.

12. Mediation.

13. Any parties and/or witnesses needing an interpreter as provided by I.C.A.R. Rule 52.

14. Reasonable estimates of the time required for trial.

B. Authority of attorneys. At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed.

Rule 704. Final Pre-trial Procedure - Formulating Issues

A. Directions for pre-trial conference. A pre-trial conference shall be held in any action if requested by any party in writing at least 20 days before trial, or if ordered by the court at any time, and the court may direct the attorneys for the parties, or any party appearing without an attorney, to submit a pre-trial memorandum containing substantially the information enumerated in Rule 705 and to appear before it for a conference to consider:

1. The simplification of the issues.

2. The necessity or desirability of amendments to the pleadings.

3. The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.

4. The limitation of the number of expert witnesses and the disclosure of the identity of persons having knowledge of the relevant facts and who may be called as witnesses.

5. The advisability of a preliminary reference of issues to a master for findings to be used as evidence.

6. Such other matters as may aid in the disposition of the action.

B. Order resulting from pre-trial conference. After the conference, the court shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. The court in its discretion may establish by rule a pre-trial calendar on which actions may be placed for consideration as above provided.

Rule 705. Pre-trial Stipulation

A. Stipulation in lieu of pre-trial conference. No later than three (3) days prior to the date set for the final pre-trial conference all parties to an action may file a written stipulation in lieu of the final pre-trial conference which shall include the following:

1. A statement that counsel have produced for examination by all other parties all exhibits required to be produced at a pre-trial conference, a list of which must be attached to the stipulation.

2. A statement that counsel have in good faith discussed settlement unsuccessfully.

3. A statement that all pre-trial disclosure and discovery procedures under Rules 401 to 448 have been completed except that the parties may recite good cause for the entry of an order allowing such discovery procedures to be taken within a specific time not beyond the time set for trial.

4. A statement that all answers or supplemental answers to interrogatories under Rule 413 reflect facts known to the date of the stipulation.

5. The estimated time of trial and a statement of the dates on which the parties or their attorney could not be available for trial.

6. Form of proposed order in lieu of pre-trial conference, which order shall contain at a minimum:

a. a concise description of the nature of the action,
b. a statement of all claims,
c. any admissions or stipulations of the parties,
d. any amendments to the pleadings and any issues of law abandoned by any of the parties,
e. a statement of the issues of fact which remain to be litigated at the trial, and any dispute as to whether such issues are formed by the pleadings,
f. a statement of the issues of law which remain to be litigated at the trial,
g. orders on all matters which will expedite the trial,
h. a descriptive list of all exhibits proposed to be offered in evidence reciting which exhibits shall be received in evidence without objection and those to which no objection will be made on grounds other than irrelevancy or immateriality,
i. a provision that counsel shall not offer any exhibits at the trial other than those listed in (h) above, except when offered for impeachment purposes or when otherwise permitted by the trial court in the interest of justice,
j. a list of the names and addresses of all witnesses which each party may call to testify at the trial, except impeachment witnesses, and all other witnesses shall be excluded from testifying in the trial of the action unless permitted by the trial court in the interest of justice,
k. where good cause has been shown therefor in the stipulation, a provision for specific discovery procedures to be undertaken within a specified time, and
l. a provision for the insertion of the trial date.

Rule 706. Pre-trial Order

After the pre-trial conference or the filing of a pre-trial stipulation, the court shall enter a final pre-trial order pursuant to Rule 704 in generally the form described in Rule 705.A.6. The court shall forthwith cause copies of the signed pre-trial order to be served on all parties or their attorneys of record in the action.

Rule 707. Judicial Notice of Facts and Foreign Law

A. Procedure. The court shall take judicial notice as provided by law. If either party to an action intends to request the court to take judicial notice of the statutes or laws of a foreign state, a brief or memorandum citing such foreign law shall be submitted to the court and opposing counsel at least fourteen (14) days prior to trial or hearing. Opposing counsel may reply thereto within seven (7) days following service of such brief. Failure to submit such brief may in the discretion of the court constitute a waiver of the request.

Rule 708. Objections to Pre-Trial Order

Any party to an action may file written objections to a pre-trial order within 14 days from service thereof, which objections shall be heard prior to trial in the same manner as a motion under these rules.

Rule 709. Exhibits and Witness Disclosure

In the event no final pre-trial conference is held, the court may enter an order directing the parties to file with the court and serve on all opposing counsel, or upon parties not represented by counsel, a list of all exhibits to be offered at trial and a list of the names and addresses of all witnesses which such party may call to testify at the trial, except for impeachment witnesses and exhibits. Any exhibits or witnesses discovered after such disclosure shall immediately be disclosed to the court and opposing counsel by filing and service stating the date upon which the same was discovered. Failure to comply with this rule may be grounds for excluding an exhibit from admission into evidence or for excluding a witness from testifying in the trial of the action. Provided the court, for good cause shown and in order to prevent injustice may permit additional exhibits to be used or additional witnesses to testify at the trial.

Rule 710. Sanctions for Failure to Comply with Pre-trial Orders

A. Failure to comply with scheduling and pre-trial orders. If a party or party's attorney fails to obey a scheduling or pre-trial order, or if no appearance is made on behalf of a party at a scheduling or pre-trial conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the judge, upon motion or his own initiative, may make such orders with regard thereto as are just, and among others any of the orders provided in Rule 444.B.2, 3 and 4. In lieu of or in addition to any other sanction, the judge shall require the party or the attorney representing him or both to pay the reasonable expenses incurred because of any noncompliance with this rule, including attorney's fees, unless the judge finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

Rule 711. Subpoenas

A. For attendance of witnesses - issuance. Every subpoena shall be issued by the clerk of the district court under the seal of the court, shall state the name of the court and the title of the action, and shall command each person to whom it is directed to appear to give testimony at trial, or at hearing, or at deposition at a time and place therein specified. A command to produce or to permit inspection and copying of documents, electronically stored information or tangible things, or to permit inspection of premises, may be joined with a command to appear at trial, or at hearing or at deposition, or may be issued separately. The clerk shall issue a subpoena, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service. Provided, an attorney licensed in Idaho as officer of the court may also issue and sign a subpoena.

B. Subpoena for production or inspection of documents, electronically stored information or tangible things, or inspection of premises.

1. A subpoena to attend a deposition, trial or hearing may command the person to whom it is directed to produce or permit inspection and copying of the books, papers, documents, electronically stored information or tangible things designated therein. If the subpoena is for a party to attend a deposition, the scope and procedure shall comply with Rule 416, and the party must be allowed at least 30 days to comply.

2. A subpoena to command a person who is not a party to produce or to permit inspection and copying of documents, electronically stored information, or tangible things, or to permit inspection of premises may be served at any time after commencement of the action. Unless

otherwise specified by the court, the party serving the subpoena shall serve a copy of the subpoena on the opposing party at least seven (7) days prior to service on the third party. The party serving the subpoenas shall pay the reasonable cost of producing or copying the documents, electronically stored information or tangible things. Upon the request of any other party and the payment of reasonable costs, the party serving the subpoena shall provide to the requesting party copies of all documents obtained in response to the subpoena.

3. A person commanded to produce or permit inspection and copying of documents, electronically stored information or tangible things or to permit inspection of premises need not appear in person at the place of production or inspection unless also commanded to appear at trial, at hearing or at deposition.

4. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

C. Form. The subpoena shall be in substantially the following form.

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR _____ COUNTY

(MAGISTRATE DIVISION)

Party's name and
designation,

vs. SUBPOENA

Party's name and
designation.

The State of Idaho to: _____:

YOU ARE COMMANDED:

[ ] to appear in the Court at the place, date and time specified below to testify in the above case.

[ ] to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

[ ] to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below. (list documents or objects)

[ ] to permit inspection of the following premises at the date and time specified below.

PLACE DATE AND TIME:

_____

_____

You are further notified that if you fail to appear at the place and time specified above, or to produce or permit copying or inspection as specified above that you may be held in contempt of court and that the aggrieved party may recover from you the sum of $100 and all damages which the party may sustain by your failure to comply with this subpoena.

Dated this _____ day of _____, 20__.

By order of the court.

_____
Clerk

(Court Seal)

_____
Deputy

D. Protection against subpoena. The court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable, oppressive, fails to allow time for compliance, requires disclosure of privileged or other protected matter and no exception or waiver applies, or subjects a person to undue burden or (2) condition compliance with the subpoena upon the advancement of the reasonable cost of producing the books, papers, documents, electronically stored information or tangible things by the person in whose behalf the subpoena is issued.

E. Witness fees and expenses. Witness fees and expenses in the district court and the magistrates division thereof shall be in the amounts provided for under Rule 901.

F. Service of subpoena. A subpoena may be served by an officer authorized by law to serve process or by any other person who is not a party and is not less than eighteen (18) years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by giving or offering to the person at the same time, if demanded, the fees for one (1) day's attendance and the mileage allowed by law, except that no prepayment tender of fees and mileage shall be necessary to witnesses subpoenaed by the attorney general or any prosecuting attorney on behalf of the state. When the subpoena is issued on behalf of the state or an officer or agency thereof, fees and mileage need not be tendered. When service is by an officer it must be returned with the officer's certificate of service, and when served by any other person it must be returned with an affidavit of such person of its service.

G. Subpoena for a hearing or trial. At the request of any party subpoenas for attendance at a hearing or trial shall be issued as provided by Rule 711.A, and such subpoenas for a hearing or trial in a district court or magistrates division may be served at any place within the state.

H. Contempt for non-obedience of subpoena. Failure by any person without adequate excuse to obey a subpoena served upon the person may be deemed a contempt of the court from which the subpoena issued, in addition to the penalties provided by law.

Rule 712. Evidence at Trial

A. Taking of testimony. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by statute or by these rules, the Idaho Rules of Evidence, or other rules adopted by the Supreme Court of Idaho.

B. Direct and cross-examination. The examination of a witness by the party producing the witness is denominated the direct examination; the examination of the same witness, by the adverse party, the cross-examination. The direct examination must be completed before the cross-examination begins, unless the court otherwise directs.

C. Limitation on examination. Only one attorney on each side shall conduct the examination of a witness until such examination is completed, except when the court grants permission for other attorneys to conduct the examination.

D. Calling by court. When the court is the trier of fact, the court may on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

E. Interrogation by court. The court may interrogate witnesses, whether called by itself or by a party.

F. Objection. Objections to the interrogation of a witness by the court may be made at the time of interrogation or at the next available opportunity.

G. Reexamination and recalling of witnesses. A witness once examined cannot be reexamined as to the same matter without leave of the court, but the witness may be reexamined as to any new matter upon which the witness has been examined by the adverse party. And after the examinations on both sides are once concluded, the witness cannot be recalled by the same party without leave of the court. Leave shall be granted or withheld by the court in the exercise of sound discretion. This rule shall not preclude the adverse party from calling such witness as that party's own witness for direct examination.

H. Interpreters. If any party, or person the party intends to call as a witness, needs an interpreter as provided in Idaho Court Administrative Rule 52, the party shall so notify the court at least fourteen (14) days before commencement of the court proceeding, or as soon as practicable in the event of an expedited hearing. If the party fails to do so without good cause and as a result the trial or hearing is postponed, the court in its discretion may impose and tax costs and expenses occasioned thereby against the party or the party’s attorney.

I. Inspection of writings. Whenever a writing is shown to a witness it may be inspected by the opposite party.

Rule 713. Informal Trial

A. Informal trial model for custody and child support. An Informal Trial is an optional alternative trial procedure that is voluntarily agreed to by the parties, counsel and the court to try child custody and child support issues. The model requires that the application of the Idaho Rules of Evidence and the normal question and answer manner of trial be waived. Once the waiver is obtained the matter proceeds to trial by consent as follows:

1. The moving party is allowed to speak to the court under oath as to his or her desires as to child custody and child support determination. The party is not questioned by counsel, but

may be questioned by the court to develop evidence required by the Idaho Child Support Guidelines and child custody evidence required by Idaho Code § 32-717.

2. The court then asks counsel for that party, if any, if there are any other areas the attorney wants the court to inquire about. If there are any, the court does so.

3. The process is then repeated for the other party.

4. If there is a Guardian ad Litem or other expert, the expert's report is entered into evidence as the court's exhibit. If either party desires, the expert is sworn and subjected to questioning by counsel, parties or the court.

5. The parties may present any documents they want the court to consider. The court shall determine what weight, if any, to give each document. The court may order the record to be supplemented.

6. The parties are then offered the opportunity to respond briefly to the comments of the other party.

7. Counsel or self-represented parties are offered the opportunity to make legal argument.

8. At the conclusion of the case, the court will make a decision.

B. Consent and waiver. The consent to and waiver to the Informal Trial shall be given verbally on the record under oath or in writing on a form adopted by the Supreme Court.

Rule 714. Separate trials

A. Bifurcation. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury as declared by the Constitutions, statutes or rules of the court.

Rule 715. View of Premises, Property or Things

A. Procedure. During a trial, the court, in its discretion, may order that the court or jury shall have a view of, (1) the property which is the subject of the action, or (2) a place in which any material fact occurred or in which any material thing is located, or (3) any other item, thing or circumstance relevant to the action. A view by the court shall be conducted personally by the court after notice to all parties. Counsel shall have the right to be present at any view by the court.

Rule 716. Appointment of Parenting Coordinator in Child Custody and Visitation Disputes

A. Definition of "Parenting Coordinator". A Parenting Coordinator under this rule is a qualified neutral person appointed by the court or agreed to by the parties to assist the parties in resolving issues relating to parenting. The Parenting Coordinator will aid the parties in identifying disputed issues, reducing misunderstandings, clarifying priorities, exploring possibilities for compromise and developing methods of collaboration in parenting. The Parenting Coordinator will make such decisions or recommendations as may be appropriate when the parties are unable to do so. The goal of the Parenting Coordinator should always be to empower the parents in developing and utilizing adaptive parenting skills so that they can

resume the parenting and decision making role in regard to their own children. When it is not possible for the parents to agree, the Parenting Coordinator shall provide only the amount of direction and service required in order to serve the best interest of the child by minimizing the degree of conflict between the parties.

B. Reference to a Parenting Coordinator. A reference to a Parenting Coordinator shall be the exception and not the rule. Such a reference shall be made only when one of the following occurs:

1. The issues appear to be intractable or have been subject to frequent re-litigation.

2. The well-being of a minor child is placed at risk by the parents' inability to co-parent civilly.

3. One or both parents has committed domestic violence.

4. One or both parents is chemically dependent or mentally ill.

5. When other exceptional circumstances require such appointment to protect the child's best interests.

C. Matters in which appointment may be made. The court, upon agreement of the parties or after having found on the record that the circumstances specified in Section B are present, may appoint a Parenting Coordinator in any action involving custody of minor children. The appointment may be made at any stage in the proceeding after entry of an order, decree, or judgment establishing child custody.

D. Selection of Parenting Coordinator. In the absence of an agreement by the parties, the court may only appoint a qualified Parenting Coordinator who has met the requirements set forth in Section F.

E. Authority of the Court.

1. The appointment of a Parenting Coordinator does not divest the court of its exclusive jurisdiction to determine fundamental issues of custody, visitation, and support, and the authority to exercise management and control of the case. A court may order the appointment of a Parenting Coordinator upon seven (7) days notice to the parties. If either party objects, the court will hold a hearing prior to making the appointment.

2. By way of illustration and not limitation the order may authorize the Parenting Coordinator to determine such matters as:

   a. time, place and manner of pick up and delivery of the children,
   b. child care arrangements,
   c. minor alterations in parenting schedule with respect to weeknight, weekend or holiday visitation which do not substantially alter the basic time share allocation,
   d. participation by significant others and relatives in visitation,
   e. first and last dates for summer visitation,
   f. schedule and conditions of telephone communication with the children,
   g. manner and methods by which the parties may communicate with each other,
   h. approval of out-of-state travel plans, and
   i. any other issues submitted for immediate determination by agreement of the parties.

3. By way of illustration and not limitation the order may authorize the Parenting Coordinator to make recommendations to the court on such matters as:

a. which parent may authorize counseling or treatment for a child,
b. which parent may select a school,
c. supervision of visitation,
d. submission to a custody evaluation;
e. appointment of an attorney or guardian ad litem for a child; and
f. financial matters including child support, health insurance, allocation of dependency exemptions and other tax benefits, liability for particular expenditures for a child.

F. Qualifications of Parenting Coordinators.

1. To be appointed as a Parenting Coordinator in the absence of a stipulation of the parties a person must be on the list of mediators compiled by the Supreme Court pursuant to Rule 603.M. Parenting Coordinators must have participated in at least twenty (20) hours of training in domestic violence and lethality assessment as set out in F.2 below within two years of the initial application. They must also have a basic familiarity with child development as it pertains to issues of bonding, attachment, and loss in early life and future child development. Each parenting coordinator must, at his or her own expense, submit to a criminal history check as provided for in Rule 47, I.C.A.R.

2. The twenty (20) hours of training required shall be in one or more of the following areas: (i) domestic violence; (ii) violence in families; (iii) child abuse; (iv) anger management; (v) prediction or evaluation of future dangerousness; or (vi) psychiatric causes of violence; and shall be acquired by completing a program approved or sponsored by one of the following associations: (i) Idaho Psychiatric Association; (ii) Idaho Psychologists Association; (iii) Idaho Nursing Association; (iv) Idaho Association of Social Workers; (v) Idaho Counselors Association; (vi) Council on Domestic Violence and Victim Assistance; (vii) Idaho State Bar; (viii) Idaho Supreme Court; (ix) an accredited college or university; or (x) any state or national equivalent of any of these organizations. Any program that does not meet the criteria set out in this subsection may be submitted for approval either prior to or after completion.

3. If the application indicates the applicant lacks any of the necessary qualifications the application will be conditionally rejected. The applicant will be provided thirty (30) days after the conditional rejection to provide any additional documentation concerning his or her qualifications or criminal history. The rejection shall become final thirty (30) days after the conditional rejection unless the Supreme Court determines after reviewing any additional documentation submitted that the applicant is qualified and fit to perform as a Parenting Coordinator.

G. Duties of Parenting Coordinator.

1. The Parenting Coordinator has a duty to define and describe for the parties, in writing, the role of the Parenting Coordinator during the initial conference with the parties. The description should include the following:

a. The difference between a Parenting Coordinator and other forms of conflict resolution, including therapy, counseling, and mediation.
b. The circumstances under which the Parenting Coordinator will meet alone with either of the parties or with any other person.
c. Any confidentiality of the proceedings and any privilege against disclosure.

d. The duties and responsibilities of the Parenting Coordinator and of the parties.
e. The fact that the resolution of any disagreement not reached by mutual consent of the parties may be decided by the Parenting Coordinator subject to review by the court upon motion or petition of either party.
f. Their right to seek independent legal counsel prior to resolving the issues or in conjunction with formalizing an agreement.
g. The information necessary for defining and resolving the disputed issues.
h. The duty to keep an adequate record of contacts with the parties and other interested persons in the case. Such documentation shall be privileged and confidential except upon order of the court to reveal it.

2. The Parenting Coordinator has a primary duty to be impartial, and to advise all parties of any circumstances bearing on possible bias, prejudice, or impartiality.

3. Best interest of the children is defined by section 32-717, Idaho Code, and nothing in this rule is intended to supersede, replace, or invalidate section 32-717.

4. The Parenting Coordinator may not make any modification to any order, judgment or decree; however the Parenting Coordinator may allow the parties to make minor temporary departures from a parenting plan if authorized by the court to do so, and the appointment order should specify those matters which the Parenting Coordinator is authorized to determine. The order will specify which determinations will be immediately effective and which will require an opportunity for court review prior to taking effect.

H. Procedure.

1. The order appointing the Parenting Coordinator shall specify the procedure to be followed by the Parenting Coordinator. The procedure specified should be simple, swift, and inexpensive. The parties will be given an opportunity to be heard on every issue submitted to the parenting coordinator but the procedure to be followed can be informal, and need not comply with the rules of evidence and procedure. Unless requested by the parties, no record need be made except for the Parenting Coordinator's decision or recommendation. In emergencies and other circumstances involving severe time constraints the decisions may be made orally, but in a fashion communicated to both parties and followed by written confirmation within a reasonable time thereafter. Decisions with respect to matters submitted under paragraph E.2 will be effective when communicated to the parties. Recommendations under paragraph E.3 will be effective fourteen (14) days after submission to the court.

2. The Parenting Coordinator may report to the court:
a. The status of the case, including, but not limited to, those specific duties set forth in the Parenting Coordinator's order of appointment. The order appointing the parenting coordinator shall require at least one status report to be made to the court and the parties by the Parenting Coordinator every six months;
b. Recommendations of the Parenting Coordinator;
c. That the Parenting Coordinator withdraws from the case.

3. The parties shall have the right to have counsel review any action taken by the Parenting Coordinator. The Parenting Coordinator and the attorneys for the parties may communicate with one another in the following manner:

a. Any contacts between the attorneys and the Parenting Coordinator may be either in writing or by telephone call or in person and may be ex parte, provided, however, that both parties shall maintain a log of all contacts in the case;
b. Attorneys are excluded from conferences with the parties unless the Parenting Coordinator requests their presence.

I. Termination of Parenting Coordinator - status report.

1. The court or the Parenting Coordinator may terminate the appointment if further efforts by the Parenting Coordinator would be contrary to the best interests of the children, if the children have reached the age of majority, or if the parties stipulate to such termination.

2. Either party may petition the court for termination of the Parenting Coordinator's appointment whenever the Parenting Coordinator has exceeded his/her mandate or has acted in a manner inconsistent with this Rule, or has demonstrated bias.

J. Role of counsel. Counsel for either party shall not by this rule be constrained from continuing to represent and advocate for their clients in a manner consistent with their professional ethics.

K. Compensation of Parenting Coordinators. Parenting Coordinators shall be compensated at their regular fees and expenses, which shall be clearly set forth in the information and materials provided to the parties. Unless other arrangements are made among the parties or ordered by the court, the interested parties shall be responsible for a pro rata share of the Parenting Coordinator's fees and expenses, commensurate with their respective contributions to total child support. If a Parenting Coordinator is not paid, the court, upon motion of the Parenting Coordinator, may order payment. Any dispute regarding payment of the fees and costs of the Parenting Coordinator shall be subject to review by the court upon request of the Parenting Coordinator or either party.

L. Statistical records. The Supreme Court shall monitor and keep records of the outcomes of Parenting Coordinator appointments for purposes of quality control and to provide information upon which to evaluate the costs and benefits of such appointments. Each Parenting Coordinator will provide such information as may be requested by the Supreme Court for these purposes.

Rule 717. Supervised Access to Children

A. Coverage. This rule shall apply in cases, other than those brought under the Child Protective Act and Juvenile Corrections Act, in which the court orders supervised access to children.

B. Purpose. This rule sets forth the duties and obligations for providers of supervised access to children. The best interest of children is the paramount consideration in deciding the manner in which supervision is provided.

C. Scope of service. These standards govern supervised access. Each court may adopt local court rules that are not inconsistent with these standards and which are necessary to implement these standards.

D. Definitions.

1. Supervised Access is any contact between a supervised party and one or more children in the presence of an approved provider.

2. Provider includes any individual or entity appointed to provide supervised access between a supervised party and one or more children. Although accountable to the court, a provider is not a party to the court proceeding.

3. Exchange Supervision/Supervised Transfer is supervised access designed to facilitate the movement of one or more children between persons with the right to access those children. In this role, the provider waits at a neutral location and makes the exchange. Objective reports may be filed with the court regarding the behavior of the parties and the well-being of the child. Exchanges may take place at a variety of locations and times. The length of time between the first half of the exchange between parties and the return half may fluctuate between several hours or several weeks.

4. Non-Professional Provider is any provider who is not paid for providing supervised access services.

5. Professional Provider is any provider paid for providing supervised access services.

6. Therapeutic Provider is a professional provider who is also a licensed mental health professional (including a psychologist, licensed master social worker, licensed professional counselor, marriage and family therapist, or an intern working under direct supervision of one of these professionals) and is ordered to provide Therapeutic Supervision.

7. Therapeutic Supervision includes the provision of supervised access services between the child and supervised party, as well as therapeutic intervention and modeling to help improve the parent-child interactions. A therapeutic provider may, when ordered, make evaluations and recommendations for further parent-child contact.

8. Supervised Party refers to a person who is authorized to have contact with a child only by supervised access or who is subject to an order for supervised exchanges/transfers.

E. Court control of supervised access. The court shall make the final decision as to who the provider will be, the manner in which supervised access is provided, and any terms or conditions thereof. The court may consider recommendations by the attorney or guardian ad litem for the child, the parties and their attorneys, family court services staff, evaluators, therapists, and reports submitted by providers of supervised access services.

F. Qualifications of providers.

1. Unless otherwise ordered by the court or stipulated to by the parties, all individuals providing supervised access must:

   a. Be 21 years of age or older;
   b. If transporting a child, have proof of minimum automobile insurance, possess a valid current driver's license, not have been convicted of or pled guilty to driving under the influence of alcohol, drugs or other intoxicating substances within the last five years, and utilize an approved child car seat and/or seat belt for the child as required by law;
   c. Have no current or past civil, criminal, or juvenile protection or restraining order against him or her regarding a child involved in the case or a party to the case;
   d. Have no current ex parte domestic violence protection order against him/her;
   e. Have no current or past domestic violence protection order against him/her entered at/after an adjudicatory hearing held after notice to him/her;
   f. Have no current or past criminal "no contact" order against him or her;

g. Never have been a supervised party; and
h. Communicate in a language that the non-custodial party and the child understand or have a neutral interpreter over the age of 18 present to assist with communication, including for the hearing-impaired.

2. In addition to the above, all professional providers must comply with the provisions of Idaho Court Administrative Rule 47 regarding Criminal History checks. A denial, either conditional or unconditional as defined by I.C.A.R. 47 precludes employment as a supervised access provider.

G. Education and training of providers. When the court orders supervised access, each court must make available to the providers the terms and conditions of supervised access under subsections N and O and the legal responsibilities and obligations of a provider as provided in sections P, Q and R. In addition, effective January 1, 2005, the professional provider of supervised access must have completed 13 hours of training in supervised access including the following topics:

1. The role of a professional and therapeutic provider.
2. Child abuse reporting laws.
3. Record-keeping procedures.
4. Screening, monitoring, and termination of access.
5. Developmental needs of children.
6. Legal responsibilities and obligations of a provider.
7. Cultural sensitivity.
8. Conflicts of interest.
9. Confidentiality requirements and limitations.
10. Dynamics of domestic violence, child abuse, sexual abuse and substance abuse.
11. Techniques for dealing with high conflict or difficult situations.
12. Effects of separation, divorce, on children and their parents.
13. Local court practices and relevant state law.
14. Maintaining a neutral role.
15. Ethical principles involved in supervision of access.

H. Safety and security procedures. All providers must make reasonable efforts to ensure the health, safety and welfare of the child, custodial and non-custodial parties, and providers during supervised access. In addition, professional providers must do all of the following:

1. Establish, with the assistance of the local law enforcement agency if possible, a written protocol that describes what emergency assistance and responses can be expected from the local police or sheriff's department. The protocol should specifically address procedures to follow in the event a child is abducted during the process of supervised access.

2. Establish and set forth in writing minimum safety and security procedures and inform the parties of these procedures prior to the commencement of supervised access;

3. Obtain prior to providing services:
   a. Copies of any protective orders and no contact orders.
   b. Current court orders pertaining to the child.
   c. A report of any written records of allegations of domestic violence or abuse.
   d. In the case of a child's chronic health condition, an account of his or her health needs.

4. Conduct a comprehensive intake and screening to assess the nature and degree of risk for each case. The procedures for intake should include separate interviews with the parties before access begins. During the interview, the provider shall obtain identifying information of the parties and the child(ren) and explain the reasons for temporary suspension or termination of access as specified subsection(s) of this section. If the child is of sufficient age and capacity, the provider shall include the child in an age-appropriate orientation prior to the first supervised access. The provider has the discretion to conduct an orientation of the process with the child separate and apart from the parties;

I. Ratio of children to provider. A professional provider may determine the appropriate ratio of children to provider for supervised access based on:

1. The degree of risk present in each case.

2. The nature of supervision required in each case.

3. The number and ages of the children to be supervised during a visit.

4. The number of people having contact with the child during access.

5. The duration and location of supervised access.

6. The experience of the provider.

J. Conflict of interest—non-professional providers. When appointing a non-professional provider the court should evaluate the provider's ability to act independently of the supervised person and in a neutral and unbiased fashion.

K. Conflict of interest – professional providers. All professional providers must maintain an engaged but unbiased role. Generally, discussions between a provider and the parties outside the actual supervision situation should be limited to arranging access and providing for the safety of a child. Unless otherwise ordered by the court or stipulated to by the parties, professional providers shall not:

1. Be financially dependent on the person being supervised.

2. Be an employee of or work for the supervised party in a capacity other than providing supervision.

3. Be otherwise employed in another capacity in a case involving the same parties.

4. Be a close relative of, or be involved in or have had an intimate relationship with, the supervised party.

L. Maintenance and disclosure of records.

1. The professional provider must keep, and it is recommended that all providers keep, a record for each case, including the following:

a. A written record of each contact, including the date, time and duration of the contact
b. Who attended.
c. A summary of activities.
d. Actions taken by the provider, including any interruptions, temporary suspension or termination, and reasons for these actions.
e. An account of critical incidents, including physical or verbal altercations and threats;
f. Violations of protective or court visitation/access orders.
g. Any failure of the parties to comply with the terms and conditions of the supervised access order.
h. Any incidents of abuse.

2. Records and reports shall be limited to facts, observations and direct statements made by the parties and/or the children, except where a therapeutic provider has been authorized by the court to evaluate and make recommendations regarding the adult/child interactions. All contacts by the provider in person, in writing, or by telephone with any party, the children, the court, attorneys, mental health professionals, and referring agencies must be documented in the case file.

3. If ordered by the court, or requested by either party or the attorney for either party or the attorney for the child, a report about the supervised access must be produced and sent to all parties, their attorneys, the attorney for the child, and the court. Such reports shall not include recommendations regarding future access unless ordered by the court and submitted by a therapeutic provider.

4. Information gathered and observations made as a result of appointment as a provider shall not be disclosed to anyone except as required by law, court order, or upon consent of both the parties.

M. Evidentiary privilege. Communications between parties and providers of supervised access are not protected by any privilege that would not otherwise apply.

N. Delineation of terms and conditions. The provider is responsible for following all of the terms and conditions of any supervised access order. The provider shall:

1. Monitor conditions to reasonably ensure the health, safety and welfare of the child.

2. Follow the frequency and duration of the access as ordered by the court.

3. Remain neutral.

4. Ensure that all contact between the child and the supervised party is within the provider's hearing and sight, and that discussions are audible to the provider.

5. Communicate in a language that the child and non-custodial party understand.

6. Allow no derogatory comments about another party, his or her family, the caretaker, the child or the child's siblings.

7. Allow no discussion of the court case or possible future outcomes.

8. Allow neither the provider nor the child to be used to gather information about another party or a caretaker, or to transmit documents, information, or personal possessions.

9. Allow no spanking, hitting, or threatening of the child.

10. Allow no access to occur while the supervised party appears to be under the influence of alcohol or illegal drugs.

11. Allow no emotional, verbal, physical, or sexual abuse.

12. Ensure that the parties follow any additional rules set forth by the provider or the court.

13. Allow no other person to have access, unless such access has been specifically approved by the court or by all parties in writing.

O. Safety considerations for cases involving sexual abuse. All providers must adhere to the following additional terms and conditions in cases involving allegations of sexual abuse:

1. Allow no exchanges of gifts, money or cards.

2. Allow no photographing, audio taping, or videotaping of the child.

3. Allow no physical contact with the child that appears inappropriate or sexualized, such as lap sitting, hair combing, stroking, hand holding, prolonged hugging, wrestling, tickling, horse-playing, changing diapers or clothes, or accompanying the child to the bathroom.

4. Allow no whispering, passing notes, hand signals, or body signals that appear inappropriate or sexualized.

5. Allow no supervised access in the location where the alleged sexual abuse occurred.

P. Responsibilities and obligations of a provider. All providers of supervised access must:

1. Inform the parties before commencement of supervised access that while communications are confidential, no privilege exists;

2. Report suspected child abuse to the appropriate agency, as required by law, and inform the parties of the provider's obligation to make such reports;

3. Comply with and enforce the terms of this rule and the court's order; and

4. Suspend or terminate access as appropriate under subsection S.

Q. Additional responsibilities of professional providers. In addition to the preceding responsibilities and obligations set forth under subsection P, the professional provider must:

1. Prepare a written contract that informs each party of the terms and conditions of supervised access and that is signed by all parties before the commencement of supervised access.

2. Review custody and visitation/access orders relevant to the supervised access.

3. Implement an intake and screening procedure under subsection H.4.

4. Develop a written protocol for suspension or termination of access services.

5. Provide general information to the parties about how they may be referred back to the court when access has been suspended or terminated.

R. Discharge of the supervisor.

1. If a previously named provider cannot accept the appointment for whatever reason, that provider shall within seven days of the notice of appointment, or receipt of the notice to

the supervisor, or order, file a declination of appointment. A provider need not give a specific reason for declining an appointment to provide supervised access.

2. If at any time after the acceptance of the appointment or before providing supervised access services the provider is no longer willing or able to act as a supervisor, the provider shall notify the court by filing a written resignation with the court and mailing a copy to the parties and their attorneys.

3. Upon motion of a party, or the court on its own motion, a supervisor may be removed for failure or inability to comply with this rule, the conditions of appointment or because the services are no longer needed.

S. Temporary suspension or termination of supervised access. All providers must make reasonable efforts to provide a safe environment for all participants. Access may be temporarily interrupted, rescheduled at a later date, or terminated if a provider determines that the rules for the access have been violated; the child has become acutely distressed; or the health, safety or welfare of the child or provider is at risk. When suspending or terminating access, providers shall:

1. Notify the court and state the reasons for suspension or termination of supervised access in writing, and provide copies to all parties, their attorneys, and any attorney for the child; and

2. Record all interruptions or terminations of access in their case file or, in the case of non-professional providers inform the court of such interruptions or terminations of access.

Comments: This Rule is intended to establish the framework for court-ordered supervised access to children. Each court is encouraged to make available to all providers of supervised access to children informational materials about the role of the provider, the terms and conditions of supervised access and the legal responsibilities and obligations of a provider. In addition to the extent dictated by local needs and conditions, Courts may develop local rules not inconsistent with this rule to govern supervised access to children. Courts should consider the following best practices in ordering supervised access:

1. Generally it is not in the best interests of children to have supervised exchanges/transfers occur at law enforcement agencies. Courts should look for other neutral locations for exchanges/transfers.

2. At the current time, the rule does not impose requirements for the amount of training or for the timing of training. Judges should ensure that professional providers' training is recent and relevant to the role they will play in any particular case.

3. No new evidentiary privilege is created by this rule. Communications of professional providers may be privileged under other provisions of Idaho law. Even where no privilege applies, providers should maintain appropriate confidentiality regarding the case except when ordered by the court, subpoenaed to produce records or testify in court, requested by a mediator or evaluator in conjunction with a court-ordered mediation, investigation or evaluation, required by child protective services, requested by law enforcement or necessary to report suspected child abuse to the appropriate agency as required by law.

Rule 718. Masters.

A. Appointment and disqualification.

1. Appointment and compensation. The court in which any action is pending may appoint a special master therein. Except where these rules are inconsistent with the law, the word "master" includes a referee, a commissioner, an auditor, and an examiner. The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action which is in the custody and control of the court as the court may direct. The master shall not retain the report as security for compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

2. Disqualification of master. Any person appointed as a master in a trial of an action shall be disqualified upon the finding of the existence of a relation or a condition of such person which would be grounds for disqualification of a judge for cause as prescribed by statute or these rules.

3. Motion and notice for disqualification. At any time within fourteen (14) days from receipt of notice of the appointment of a master in an action, any party thereto may object to the qualification of such masters by filing a motion to disqualify the master and stating the grounds in support thereof. Such motion may be supported by affidavit and shall be noticed for hearing and determined by the court in the same manner as other motions under these rules. The court, in its discretion, may hear testimony on such motion or may determine the same upon the record including affidavits and counter-affidavits filed by the parties or the master.

B. Reference to a master. A reference to a master shall be the exception and not the rule. A reference shall be made only upon a showing that some exceptional condition requires it.

C. Powers of master. The order of reference to the master may specify or limit the master's powers and may direct the master to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing and to do all acts and take all measures necessary or proper for the efficient performance of duties under the order. The master may require the production of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 103 of the Idaho Rules of Evidence.

D. Procedure.

1. Proceedings - meetings. When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within twenty (20) days after the date of the

order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master may apply to the court for an order requiring the master to speed the proceedings and to make the report. If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

2. Witnesses. The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 711. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 711 and 444.

3. Statement of accounts. When matters of accounting are in issue before the master, the master may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as the master directs.

E. Masters report.

1. Contents and filing. The master shall prepare a report upon the matters submitted to the master by the order of reference and, if required to make findings of fact and conclusions of law, the master shall set them forth in the report, separately stated. The master shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

2. Master's findings. The court shall accept the master's findings of fact unless clearly erroneous. Within fourteen (14) days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 501.C. The court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

3. Stipulation as to findings of master. The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

4. Draft report of master. Before filing a report a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

VIII. JUDGMENTS; POST-DECREE/POST-JUDGMENT PROCEEDINGS

Rule 801. Findings by the Court – Effect

In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon and direct the entry of the appropriate judgment; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for the purposes of review. Findings of fact shall not be set aside unless clearly erroneous. In the application of this principle regard shall be given to the special opportunity of the trial court to judge the credibility of those witnesses who appear personally before it. The findings of the master, to the extent that the court adopts them, shall be considered as the findings of the court. If an opinion or memorandum decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary in support of a judgment by default, an interlocutory order, on decisions of motions under Rules 502 or 505 or any other motion except as provided in Rule 123; in all instances findings of fact and conclusions of law may be waived by stipulation of all parties upon approval by the court. A written memorandum decision issued by the court may constitute the findings of fact and conclusions of law only if the decision expressly so states or if it is thereafter adopted as the findings of fact and conclusions of law by order of the court.

Rule 802. Amendment of Findings of Court

A motion to amend findings or conclusions or to make additional findings or conclusions shall be served not later than fourteen (14) days after entry of the judgment, and if granted the court may amend the judgment accordingly. The motion may be made with a motion for a new trial pursuant to Rule 807. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the district court an objection to such findings or has made a motion to amend them or a motion for judgment. No party may assign as error the lack of findings unless the party raised such issue to the trial court by an appropriate motion.

Rule 803. Judgments - Definition - Form

"Judgment" as used in these rules means a separate document entitled Judgment or Decree. A judgment shall state the relief to which a party is entitled on one or more claims for relief in the action. Such relief can include dismissal with or without prejudice. A judgment shall not contain a recital of pleadings, the report of a master, the record of prior proceedings, courts legal reasoning, findings of fact, or conclusions of law. A judgment is final if either it has been certified as final pursuant to Rule 804 or judgment has been entered on all claims for relief, except costs and fees, asserted by or against all parties in the action.

Rule 804. Judgment Upon Multiple Claims or Involving Multiple Parties

A. Certificate of final judgment. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment upon one or more but less than all of the claims or parties only upon an express determination that there is no just

reason for delay and upon an express direction for the entry of the judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates less than all the claims or the rights and liabilities of less than all the parties shall not terminate the actions as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties. If any parties to an action are entitled to judgments against each other such as on a claim and counterclaim, or upon cross-claims, such judgments shall be offset against each other and a single judgment for the difference between the entitlements shall be entered in favor of the party entitled to the larger judgment. In the event the trial court determines that a judgment should be certified as final under this Rule, the court shall execute a certificate which shall immediately follow the court's signature on the judgment and be in substantially the following form:

CERTIFICATE OF FINAL JUDGMENT

With respect to the issues determined by the above judgment or order it is hereby CERTIFIED, in accordance with Rule 804, that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED this _____ day of _____, 20_____.

_____
(Signature - Magistrate Judge)

B. Jurisdiction if appealed after certificate of final judgment. If a Certificate of Final Judgment is issued on a partial judgment and an appeal is filed, the trial court shall lose all jurisdiction over the entire action, except as provided in Rule 13 of the Idaho Appellate Rules.

Rule 805. Demand for Judgment

A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.

Rule 806. Satisfaction of Judgment

Upon full payment of a judgment, the party in whose favor the judgment was rendered shall have the duty to record a satisfaction of judgment in every county where the judgment or abstract of the judgment is recorded and to file it in the court of entry. A satisfaction of judgment may be signed by the attorney of a party in whose favor the judgment was entered.

Rule 807. New Trial - Amendment of Judgment

A. Grounds for motion for new trial. A new trial may be granted to all or any of the parties and on all or part of the issues in an action for any of the following reasons:

1. Irregularity in the proceedings of the court, jury or adverse party or any order of the court or abuse of discretion by which either party was prevented from having a fair trial.

2. Misconduct of the jury.

3. Accident or surprise, which ordinary prudence could not have guarded against.

4. Newly discovered evidence, material for the party making the application, which the party could not, with reasonable diligence, have discovered and produced at the trial.

5. Excessive damages or inadequate damages, appearing to have been given under the influence of passion or prejudice.

6. Insufficiency of the evidence to justify the verdict or other decision, or that it is against the law.

7. Error in law, occurring at the trial.

Any motion for a new trial based upon any of the grounds set forth in subdivisions 1, 2, 3 or 4 must be accompanied by an affidavit stating in detail the facts relied upon in support of such motion for a new trial. Any motion based on subdivisions 6 or 7 must set forth the factual grounds therefor with particularity. On a motion for new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

B. Time for motion for new trial. A motion for a new trial shall be served not later than fourteen (14) days after the entry of the judgment.

C. Time for serving affidavits on motion for new trial. When a motion for a new trial is based upon affidavits they shall be served with the motion. The opposing party has fourteen (14) days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding twenty one (21) days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

D. On initiative of court. Not later than fourteen (14) days after entry of judgment the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party. The court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In either case, such order shall be made only after giving the parties notice and an opportunity to be heard on the matter, and the court shall specify in the order the grounds therefor.

E. Motion to alter or amend a judgment. A motion to alter or amend the judgment shall be served not later than fourteen (14) days after entry of the judgment.

Rule 808. Relief From Judgment or Order - Clerical Mistakes

Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the Supreme Court or the district court, as the case may be, and thereafter while the appeal is pending may be so corrected.

Rule 809. Mistake, Inadvertence, Excusable Neglect, Newly Discovered Evidence, Fraud, Grounds for Relief From Judgment or Order

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

1. mistake, inadvertence, surprise, or excusable neglect;

2. newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 807.B;

3. fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

4. the judgment is void;

5. the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or

6. any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time, and for reasons 1, 2, and 3 not more than six (6) months after the judgment, order, or proceeding was entered or taken. A motion under this rule does not affect the finality of a judgment or suspend its operation. Such motion does not require leave from the Supreme Court, or the district court, as the case may be, as though the judgment has been affirmed or settled upon appeal to that court. This rule does not limit the power of a court to: (i) entertain an independent action to relieve a party from a judgment, order or proceeding, or (ii) to set aside, as provided by law, within one (1) year after judgment was entered, a judgment obtained against a party who was not personally served with summons and petition either in the state of Idaho or in any other jurisdiction, and who has failed to appear in said action, or (iii) to set aside a judgment for fraud upon the court.

Rule 810. Contempt

Actions for contempt shall be governed by Rule 75, Idaho Rules of Civil Procedure.

IX. ATTORNEY FEES AND COSTS

Rule 901. Costs - Items Allowed

A. Parties entitled to costs. Except when otherwise limited by these rules, costs shall be allowed as a matter of right to the prevailing party or parties, unless otherwise ordered by the court.

B. Prevailing party. In determining which party to an action is a prevailing party and entitled to costs, the trial court shall in its sound discretion consider the final judgment or result of the action in relation to the relief sought by the respective parties. The trial court in its sound discretion may determine that a party to an action prevailed in part and did not prevail in part, and upon so finding may apportion the costs between and among the parties in a fair and equitable manner after considering all of the issues and claims involved in the action and the resultant judgment or judgments obtained.

C. Costs as a matter of right. When costs are awarded to a party, such party shall be entitled to the following costs, actually paid, as a matter of right:

1. Court filing fees.

2. Actual fees for service of any pleading or document in the action whether served by a public officer or other person.

3. Witness fees of $20.00 per day for each day in which a witness, other than a party or expert, testifies at a deposition or in the trial of an action.

4. Travel expenses of witnesses who travel by private transportation, other than a party, who testify in the trial of an action, computed at the rate of $.30 per mile, one way, from the place of residence, whether it be within or without the state of Idaho; travel expenses of witnesses who travel other than by private transportation, other than a party, computed as the actual travel expenses of the witness not to exceed $.30 per mile, one way, from the place of residence of the witness, whether it be within or without the state of Idaho.

5. Expenses or charges of certified copies of documents admitted as evidence in a hearing or the trial of an action.

6. Reasonable costs of the preparation of models, maps, pictures, photographs, or other exhibits admitted in evidence as exhibits in a hearing or trial of an action, but not to exceed the sum of $500 for all of such exhibits of each party.

7. Cost of all bond premiums.

8. Reasonable expert witness fees for an expert who testifies at a deposition or at a trial of an action not to exceed the sum of $2,000 for each expert witness for all appearances.

9. Charges for reporting and transcribing of a deposition taken in preparation for trial of an action, whether or not read into evidence in the trial of an action.

10. Charges for one (1) copy of any deposition taken by any of the parties to the action in preparation for trial of the action.

Notwithstanding the determination that a particular party is entitled to costs as a matter of right under this subparagraph C in an action, the trial court in its sound discretion may, upon proper objection, disallow any of the above described costs upon a finding that said costs were not reasonably incurred; were incurred for the purpose of harassment; were incurred in bad faith; or were incurred for the purpose of increasing the costs to any other party. The mere fact that a deposition is not used in the trial of an action, either as evidence read into the record or for the purposes of impeachment, shall not indicate that the taking of such deposition was not reasonable, or that a copy of a deposition was not reasonably obtained, or that the cost of the deposition should otherwise be disallowed, so long as its taking was reasonable in the preparation for trial in the action.

D. Discretionary costs. Additional items of cost not enumerated in, or in an amount in excess of that listed in subparagraph C, may be allowed upon a showing that said costs were necessary and exceptional costs reasonably incurred, and should in the interest of justice be assessed against the adverse party. The trial court, in ruling upon objections to such discretionary costs contained in the memorandum of costs, shall make express findings as to why such specific item of discretionary cost should or should not be allowed. In the absence of any objection to such an

item of discretionary costs, the court may disallow on its own motion any such items of discretionary costs and shall make express findings supporting such disallowance.

E. Costs incurred by the court. The Court may assess and apportion as costs between and among the parties to the action, in the sound discretion of the court, all fees and expenses of masters, receivers or expert witnesses appointed by the court in the action.

F. Costs and attorney fees - fees on execution of judgment - added to judgment. All costs and attorney fees approved by the court and fees for the service of the writ of execution upon a judgment shall be deemed automatically added to the judgment as costs and collected by the sheriff in addition to the amount of the judgment and other allowed costs. In the event the return of the sheriff upon a writ of execution indicates that the service costs were not obtained through the service of the writ, the clerk of the court shall automatically add the uncollected service fees to the judgment as additional costs.

Rule 902. Multiple Parties

In the event judgment is entered in favor of multiple parties or co-parties, costs shall be allowed as a matter of course to each of the prevailing parties unless the court otherwise directs.

Rule 903. Costs on Postponement

In the event any party to an action applies for an enlargement of time or postponement of a hearing or trial, the court in its discretion may impose and tax costs and expenses occasioned thereby against the moving party as a condition to such enlargement or postponement.

Rule 904. Nonresident Cost Bond Prohibited

No party to an action shall be required to furnish a cost bond or undertaking by reason of the fact that the party is not a resident of the state of Idaho.

Rule 905. Memorandum of Costs

At any time after the verdict of a jury or a decision of the court, any party who claims costs may file and serve on adverse parties a memorandum of costs, itemizing each claimed expense, but such memorandum of costs may not be filed later than fourteen (14) days after entry of judgment. Such memorandum must state that to the best of the party's knowledge and belief the items are correct and that the costs claimed are in compliance with this rule. Failure to file such memorandum of costs within the period prescribed by this rule shall be a waiver of the right of costs. A memorandum of costs prematurely filed shall be considered as timely.

Rule 906. Objections to Costs

Any party may object to the claimed costs of another party set forth in a memorandum of costs by filing and serving on adverse parties a motion to disallow part or all of such costs within fourteen (14) days of service of the memorandum of cost. Such motion shall not stay execution on the judgment, exclusive of costs, and shall be heard and determined by the court as other motions under these rules. Failure to timely object to the items in the memorandum of costs shall constitute a waiver of all objections to the costs claimed.

Rule 907. Settlement of Costs by Order of Court

After a hearing on an objection to a memorandum of costs, or after the time for filing an objection has past, the court shall, upon motion of any party or upon the court's own initiative, enter an order settling the dollar amount of costs, if any, awarded to any party to the action.

Rule 908. Attorney Fees

In any civil action the court may award reasonable attorney fees, which at the discretion of the court may include paralegal fees, to the prevailing party or parties as defined in Rule 901.B. when provided for by any statute or contract. Provided, attorney fees under section 12-121, Idaho Code, may be awarded by the court only when it finds, from the facts presented to it, that the case was brought, pursued or defended frivolously, unreasonably or without foundation; but attorney fees shall not be awarded pursuant to section 12-121, Idaho Code, on a default judgment.

Rule 909. Findings

Whenever the court awards attorney fees pursuant to section 12-121, Idaho Code, it shall make a written finding, either in the award or in a separate document, as to the basis and reasons for awarding such attorney fees.

Rule 910. Amount of Attorney Fees

A. Factors to consider. In the event the court grants attorney fees to a party or parties in a civil action it shall consider the following factors in determining the amount of such fees:

1. The time and labor required.

2. The novelty and difficulty of the questions.

3. The skill requisite to perform the legal service properly and the experience and ability of the attorney in the particular field of law.

4. The prevailing charges for like work.

5. Whether the fee is fixed or contingent.

6. The time limitations imposed by the client or the circumstances of the case.

7. The amount involved and the results obtained.

8. The undesirability of the case.

9. The nature and length of the professional relationship with the client.

10. Awards in similar cases.

11. The reasonable cost of automated legal research (Computer Assisted Legal Research), if the court finds it was reasonably necessary in preparing a party's case.

12. Any other factor which the court deems appropriate in the particular case.

X. OTHER FAMILY LAW SERVICES AND RESOURCES

Rule 1001. Other Family Law Services and Resources

In addition to services prescribed elsewhere in these rules, the court may order the services set forth in this rule, if available, in a family law case.

A. Mental health services. The court may order parties to engage in mental health services, including, but not limited to, counseling and other therapeutic interventions.

B. Substance abuse screening and testing in cases where custody or parenting time are at issue. Upon an allegation or showing that a party has abused drugs or alcohol, including prescription medication, the court may order substance abuse screening and random testing of that party. The court shall designate the frequency of testing and apportion responsibility for payment of screening and testing.

C. Parent education. The court may order the parties to engage in parent education. The court may order supplemental or additional education, such as parenting skills classes and parental conflict resolution classes.

D. Family violence prevention services; domestic violence shelters; advocacy services. Goals of the court include prevention of domestic violence and protection of parties and children from domestic violence. In pursuit of these goals, the court may implement family violence prevention services, including, but not limited to, family violence prevention centers and victim advocacy services. If the court finds evidence of an act or threat of domestic violence in a case, the court may refer the parties to services that the court deems appropriate for victims and batterers.

XI. APPENDIX

Form 1 – Inventory of Property and Debts

Form 2 – Uniform Family Law Interrogatories

Form 3 – Affidavit Re: Motion for Temporary Orders

Form 4 – Family Law Case Information Sheet